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# *Paying for Massachusetts*

## Tax Evasion and the Underground Economy

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***Paying for Massachusetts  
Tax Evasion  
and the Underground Economy***

***A Joint Publication of the  
Massachusetts State Legislature's  
Committee on Taxation and the  
Cooperative Extension Service,  
University of Massachusetts at Amherst***

***Based on a Seminar at the  
Massachusetts State House  
April 14, 1983***

***John Brouder and George McDowell,  
Series Editors***

***Duane Dale, Project Director***

***1983***

*Issued by the Cooperative Extension Service, David E. Leonard, Acting Dean, in furtherance of the Acts of May 8 and June 30, 1914; United States Department of Agriculture and County Extension Services cooperating. The Cooperative Extension Service offers equal opportunity in programs and employment.*

## Publications in this Series

This is Number 1 in the *Paying for Massachusetts* series, which will also include publications on earmarking aid for education; local revenue diversification; tax expenditure budgeting; and assessing, revaluation, and classification. A descriptive brochure with ordering information may be obtained from

Bulletin Center  
Cottage A, Thatcher Way  
University of Massachusetts  
Amherst, MA 01003  
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## Other Publications of Interest

The following publications were prepared by the Local Government Program of the University of Massachusetts Cooperative Extension Service. Orders may be placed care of the address above; checks should be made payable to the Massachusetts Cooperative Extension Service.

*Cooperation in the Provision of Services: A Study of Massachusetts and Rhode Island Towns* (1982, \$3.50) reports on cooperation among municipalities in Massachusetts and Rhode Island. It includes contract guidelines and information about relevant state laws.

*Using User Fees: A Guide for Massachusetts Cities and Towns* (1981, \$3.00) includes a survey of user fee practices in Massachusetts municipalities and a case study of a user fee program in one town.

*Developing a Cash Flow Projection: A Cash Management Tool for Massachusetts Towns* (1981, \$2.50) provides guidance in developing a cash flow statement and budget projection.

*Cutback Management: Coping with Proposition 2½* (1981, \$3.00) reviews cutback management techniques, including alternative revenue sources and alternative delivery systems.

*Managing Short-Term Debt in the Towns of Massachusetts* (1980, \$4.00) presents management techniques, state laws, and examples of the use of short-term debt.

*The Federal Granting System: A Guide for Local Governments in Massachusetts* (1978, \$3.00) is a guide to writing and developing successful proposals, as well as a directory of resources.

(Prices are effective November 15, 1983, until further notice.)

## Programs Available

The Cooperative Extension Service provides a variety of programs to assist local governments in financial management, natural resource management, planning, and economic development. For example:

*Financial Trends in Massachusetts Communities* is a computerized financial management program that uses the historical records of a community to develop a long-range, detailed financial profile. This enables cities and towns to monitor financial condition, identify problem areas, and develop appropriate policy responses. *Financial Trends* is offered by the University of Massachusetts Local Government Program at a nominal fee. The program is cosponsored by the Massachusetts Department of Revenue and the Massachusetts Municipal Association. A brochure is available from Local Government Program, Draper Hall, University of Massachusetts, Amherst, MA 01003, (413) 545-2495.

*Federal Assistance Program Retrieval System (FAPRS)* is a computerized search of the *Catalog of Federal Domestic Assistance* to identify programs of federal assistance for which a local government, public agency, or private individual would be eligible. There is a small fee for each search. A brochure is available from the Local Government Program (address above).

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# Paying for Massachusetts

Beginning in October 1982, the Joint Legislative Committee on Taxation sponsored a series of seminars on the major tax and budget issues facing the Commonwealth. The seminars were educational, the goal being to give a broad audience of legislators, legislative staff, citizens, and other interested groups a chance to hear the reasoned and conflicting arguments of people involved with tax and budget issues. Seminar topics included:

- An Introduction to Public Finance (October 1982)
- Business Taxes in Massachusetts (November 1982)
- Local Aid for FY 84 (November 1982)
- The Massachusetts Sales Tax (December 1982)
- Earmarking Aid for Education (February 1983)
- Local Revenue Diversification (February 1983)
- Tax Expenditure Budgeting (March 1983)
- Tax Evasion and the Underground Economy (April 1983)
- Assessing, Revaluation and Classification (May 1983)
- Evaluating Proposition 2½ (June 1983)

In the end, more than 1,000 people had attended this series of seminars — a tribute to the power of complicated tax issues to attract citizen interest when issues are presented in a clear, non-biased way.

The Cooperative Extension Service of the University of Massachusetts is furthering the Committee's educational goals by editing, printing, and distributing a pamphlet series based on some of the seminar topics. Beginning with the seminar session on Earmarking Aid for Education, copies of the Committee's proceedings will be available as a public service publication series entitled "Paying for Massachusetts." We hope that this series will help to fuel the public debate on tax issues and create a more responsive legislature and a more informed public.

We recommend these publications to you. The views expressed are those of the individual speakers and do not necessarily represent those of the Taxation Committee. The publications have been prepared from transcripts of the speakers' remarks.

The Committee will begin another seminar series in the fall of 1983. If you would like to be added to our mailing list and receive advance notice of each session, please write to the Committee Office at the State House. If you have a problem or a question about taxes that you think would make a good seminar topic, please let us know about it. There are still a good many questions about our state's tax structure that need to be answered.

Senator John W. Olver  
Senate Chairman, Joint Committee on Taxation

In any society or culture the basic measure of the existence of “community” is the willingness of community members to allow themselves to be obligated by and to others in the community. This concept of community is the fundamental ethic upon which taxation in a democratic society is based. Tax evasion, because it challenges this accepted ethic, becomes known as cheating, as theft, as a crime. The speakers at this seminar session focused on the size, the impact, and the potential solutions to this large and growing criminal problem.

Tax administrators have always assumed that a certain level of evasion was inevitable. However, most evaders were thought to be either organized criminals, misfits, or political fringe groups. It has only been in the last decade that tax administrators, in the Internal Revenue Service (IRS) and in various state revenue bureaus, have begun to recognize that tax evasion among otherwise honest citizens was becoming a pervasive and costly problem.

This seminar did not set out to answer the question, “Why do people cheat?” Explanations — contempt for government, complicated reporting systems, inadequate enforcement — tend to blur the consequences, tend to obscure the fact that tax bills for the honest majority would drop by ten percent or more if the dishonest minority paid what they owed. The seminar participants all agreed that tax evasion is a crime and they focused their attention on stopping it, not explaining it. To that end panelists focused on estimating the size of the evasion problem and suggesting remedies.

Making estimates of tax evasion is decidedly more difficult than estimating steel production or automobile sales, and economists often resort to statistical techniques which would be better suited to guessing the number of jellybeans in a jar. For example, in 1981, then Department of Revenue (DOR) Commissioner Joyce Hamper estimated the state’s evasion losses at \$380 million annually. By 1983, DOR Commissioner (and panel participant) Ira Jackson placed the total at well over \$600 million. While some of this increase undoubtedly represents increased cheating, some of it clearly represents better information about cheating techniques and better economic models for measuring impact.

Seminar participants Gregg Miller and Tom Hogan, from Minnesota and New York State respectively, discussed frankly their efforts to combat tax evasion. They commended Governor Dukakis for his Revenue Enforcement and Protection program (REAP) and predicted that REAP would become a national model. The perspective of out-of-state tax administrators helped the audience to realize both that evasion was a national problem and that in Massachusetts, we are moving aggressively to combat it.

Several of the speakers use the phrase, “the underground economy,” in describing and discussing tax cheating. It is evident from the papers reproduced here and from a perusal of the bibliography that this publication has barely scratched the surface of the problems and implications of economic activity which operates outside of the formal approval of our community. The extent that tax cheating is approved of by members of the community signals the degree to which our society is in danger of coming apart. It is, therefore, important that we deal with the cheating, and this publication presents suggestions from tax experts about how we can do just that.

George McDowell  
John Brouder  
Editors





# Introduction

## John Brouder

Good Morning. I'd like to welcome people to the eighth in a series of seminars on important tax issues facing the Commonwealth. This session is being jointly sponsored by the Taxation Committee and the State Department of Revenue. We have a distinguished panel of experts here to discuss the issue of tax evasion. The presence on the panel of Massachusetts Governor Michael Dukakis underscores the critical importance of this issue. Our five speakers will each speak for ten to twelve minutes. After their prepared remarks, I'll ask each of them if they have any additional comments or rebuttal remarks to make.

Now, unlike some of our recent seminars, there is not going to be a great deal of controversy today. Many of the topics that we have dealt with have had people speaking on one or another side of an important issue, but I think that all five of the panelists at today's session agree on one thing—that tax evasion is a crime, and it is not a victimless crime. The presence of tax evaders in our midst essentially delegitimizes our state revenue system and, most importantly, shifts an ever-increasing tax burden on to the honest people who end up paying those taxes.

We tried very hard to get some tax evaders to join us on this panel today. We all know of some people who in their daily lives make a practice of evading their taxes. But although we offered them hoods or videotape or other guarantees of anonymity, it was impossible to get someone who practices tax evasion to come and share with us techniques, attitudes, and moral feelings about tax evasion.

In order to get a sense of what we mean when we talk about the underground economy, I'm going to introduce our first speaker, the Chairman of the Taxation Committee, Senator John Olver.

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*John Brouder serves as staff member to the Massachusetts Senate's Committee on Taxation.*



# Tax Evasion Overview

## Senator John Olver

The underground economy has been with every government since the beginning of time. It certainly has been with us in this nation, but it's only in recent years—really in the last decade or so—that it has reached what one might call 'epidemic proportions.' An ever-increasing number of Americans are working and producing 'under the table,' 'off the record books,' or 'out of sight' of the economists who are calculating the gross national product and the unemployment rates, and certainly, out of the clutches of the tax collectors. They're dealing in cold, hard cash. The IRS estimates that of the \$750 billion in taxes that will be owed this year, \$100 billion will not be paid. That's about 13 or 14 percent of the total tax revenue. In Massachusetts the estimates of unpaid taxes range from \$300 million to \$650 million, depending upon the methodology used to calculate the figures. And those estimates are probably conservative.

The underground economy increases substantially with the perceived instability of the government, or as the ineffectiveness or incompetence of government increases. In West Germany, a relatively stable nation, estimates of the magnitude of the underground economy are somewhere in the five percent range. In Italy, on the other hand, and in other nations that have a very high inflation rate, estimates of the size of the underground economy go up to one-third or one-half of all business activity.

In this nation, during the last decade, the underground economy has grown because there has been a perceived loss in the standard of living, a high inflation rate in the latter part of the 1970's, a substantial fiscal crisis not only nationally, but in individual budgets, and a loss of credibility of the government in general as an offshoot of the Vietnam War and Watergate, etc.

There's no question of law here. The people who are evading those hundred billion dollars of taxes on the national level, and several hundred millions of dollars in the state of Massachusetts, are breaking the law. They are committing a crime.

Maybe they have a deep moral conviction that government is spending the money on wrong priorities (an ideological feeling that can come from either end of the political spectrum). Or it may be a contempt for the sucker who pays his taxes, or a contempt for a system—a system where it is perceived that the wealthiest of individual taxpayers and the wealthiest of corporations are able to afford the tax lawyers and tax consultants that get the laws changed in order to avoid taxes. As a result, we have an IRS code which is ridden with tax loopholes that need to be looked at.

There is a whole series of reasons why people don't pay taxes, but the end result is that all of the generally honest taxpayers end up paying more. The honest taxpayers represent eighty to ninety percent of the population. People who are on salaries and wages where there is a withholding tax involved, where there is a generalized reporting involved, end up paying an additional thirteen percent in taxes at the national level to make up for the \$100 billion evaded by those involved in the cash economy.

Everybody understands that the underground economy includes criminal activities such as prostitution or car-theft rings, gambling syndicates, or drug smuggling. That's been part of the system for a long time, and that represents, in the best of circumstances, probably 50 to 75 percent of the underground economy. But with today's epidemic proportions of tax evasion, the proportion of taxes not paid because of criminal activity has dropped to between 25 and 33 percent of the underground economy. The rest of the tax evaders are basically people who think they are doing something relatively innocent, that their activities are harmless. These people are not shouldering their portion of the social responsibility though, and have developed a range of rationalizations to justify tax evasion.

Tax evasion estimates include a large portion of meals and sales taxes which have been collected from individual consumers but are never paid to the government. They also include the withholding



Tax evasion estimates include a large portion of meals and sales taxes which have been collected from individual consumers but are never paid to the government. They also include the withholding taxes for unemployment compensation, which have not been paid into the funds where they should go. The estimates include an elaborate barter network. They include individuals, largely dealing in consumer services, largely in a professional capacity—tradespeople, lawyers, plumbers, carpenters, CPA's, auto mechanics, medical personnel, hairdressers—who have figured out a way to deal in cash outside of the reporting system. All of these people may rationalize not paying taxes with arguments about the government wasting the money; or that it's easy not to pay taxes because there are not enough audits; or a variety of other reasons. There's no stigma attached to not paying taxes. It's viewed as something for which there's no particular public shame to be attached, and some people even claim that tax evasion is justified because of the loophole-ridden system that I mentioned.

Most people think their taxes are too high, even though taxes in this state and in this nation are below the tax levels of western European nations and most of the industrial nations of the world. As I mentioned before though, most Americans realize that the wealthiest individuals and corporations have managed, with the help of tax experts, to have put into the tax code a series of loopholes that allow them, legally, to avoid taxes by what we term the tax expenditure route. And while the arcane IRS code may be viewed as a symphony, or maybe better, a cacophony of tax avoidance (legal ways of reducing tax liability because of the ability to change the tax laws), the underground economy has become a concerto of tax evasion (illegal ways of reducing the tax liability without changing the tax law).

The rest of the panel has many more specific things to say about the issue and how to deal with it. My last job here this morning is to introduce Governor Michael Dukakis, who has the good fortune to be trying to provide stable government and effective services in Massachusetts in a time of decreasing credibility and decreasing resources from the federal government. The issue of tax eva-

sion is going to be a key one for whether or not the administration of this Governor will be successful in providing services to the people of Massachusetts.




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*John Olver was elected to the state House of Representatives in 1969, and in 1973 ran for and won the Senate seat from Franklin and Hampshire counties. He has served in the Massachusetts Senate since that time, and is now chairman of the Taxation Committee.*



# Cracking Down on Tax Evasion in Massachusetts

## Governor Michael Dukakis

One of the best things about being governor is the ability to do something about some of these things, while one of the worst things is that, at least in the early stages of one's administration, one can only speak his piece and disappear rather than stay and do some listening and learning. I apologize that I have to make these comments this morning and then not be in a position to sit and listen to the other panelists.

But I'm very grateful to Tom Hogan and Gregg Miller for joining us and giving us the benefit of their experience, and I hope that we can learn from each other because I suspect that the problems we're discussing today are not uncommon in the states of New York and Minnesota. Since both of those states have financial problems which even exceed our own these days (for reasons which they can probably best describe to you), I'm sure that what we discuss today is as important to their governors as it is to me, and I expect we're all trying to do the same thing and do it well. This problem is one which is very, very high on our priority list for a number of reasons, some of which Senator Olver has already stated.

If I were a taxpayer in the Commonwealth, and I had tried as best I could to pay my taxes on time and in compliance with the law, and had picked up my morning paper and had spent 15 or 20 minutes running my eyes over that list of taxes not paid (and in many cases already collected, as the Senate Chairman on Taxation pointed out—meals, sales, withholding), I would have been outraged, and I assume the same is true for every taxpayer in this Commonwealth.

Now I think we all know there's a certain irreducible minimum of taxes not paid because of bankruptcies and other things which are not the result of evasion or of any attempt to avoid one's legal obligations. But that isn't what we're talking about. When as Governor I receive a Department of Revenue estimate (which is reflected on the chart in front of you) to the effect that some \$640 million

per year in taxes are evaded (broken down as you see them on the chart), and when I think of how much more pleasant our lives would be around here if even a significant portion of those revenues were collected, it simply spurs me on to a renewed effort to do something about this problem. I want to make sure that everyone, not just the vast majority of all citizens, is paying his or her taxes and complying with the law. We must do this to strengthen the credibility of our tax system because as Senator Olver pointed out, if the notion gets around that a lot of people are evading taxes and that they're getting away with it, we will have problems.




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***"I want to make sure that everyone, not just the vast majority of all citizens, is paying his or her taxes and complying with the law."***

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## Enforcement Plans

We're going to have tougher enforcement, publicize cases, and make sure that people who are licensed by the Commonwealth, people who do business with the Commonwealth, and people who provide Medicaid services to clients of the Commonwealth pay their taxes. The fact of the matter is that a taxing system, a revenue-raising system, is fundamentally based on the premise that everybody is paying his fair share. If the notion gets around though, that that isn't the case, then all of the tough enforcement, all of the tough steps that we hope and expect to take this year in cooperation with the legislature will not do the kind of job we're talking about.

Now what have we done in our effort to get on top of this problem right away? I've appointed an advisory council chaired by Professor Paul McDaniel of the Boston College Law School which has been working hard for many weeks with the Commissioner and other people in the Department of Revenue to look at this problem and come up with recommendations for enforcement. We've also had some very good (and free) consulting advice from some major accounting firms which has been extraordinarily helpful to us. In addition, I've appointed Ira Jackson as Commissioner of the Department of Revenue, and I don't think there's any question as to what kind of leadership we're getting in the Department under him. He's tough, and he believes just as strongly as I do that tax evasion is one of the most serious problems we face.

I think all of you by this time know that we are serious about what we are doing. We've appointed as Deputy Commissioner of Revenue for Audit, Max Singer, a man with 30 years of experience with the IRS. We're going to do things with respect to the obligations of the fathers of children on welfare. We've created a new kind of enforcement bureau which will make a determined effort to get these fathers to pay child support. In addition, we've filed with the Legislature a Revenue Enforcement and Protection Program which involves a whole series of steps, many of which we have not undertaken in this state, to deal with this problem.

Now I should add that the \$640 million we're losing in tax dollars is not being lost to organized crime. That's not the culprit. We're not talking about some massive effort to get inside organized crime and get those fellows to pay their taxes. That

would undoubtedly involve a more complicated kind of law enforcement effort which is not the subject of today's discussion. We're just talking about basic tax evasion in the form of nonreporting or underreporting income, overreporting deductions, or simply nonfiling.

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*“... There are systematic ways of getting inside this tax evasion problem which we must undertake if we're going to do this job and do it well.”*

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## Systematic Attack Needed

We know that other states have been doing this job and doing it well, and that our Department of Revenue has been trying hard to do it too. But my sense is that tax evasion has not been attacked systematically, that we are not using the most modern tools available. We are not using very simple devices like requiring people who are licensed by the Commonwealth to do business or engage in professions to obtain tax clearance with respect to continued licensing.

Beyond that, there are systematic ways of getting inside this tax evasion problem which we must undertake if we're going to do this job and do it well. And if we're going to produce this year, and in future years, the kind of progressive and forward-looking budget that this state should have and must have, if we're going to pay for it without having to impose another dreary round of broadly-based taxes, then it seems to me that this particular strategy simply has to work, and we've got to be serious about it. We've got to give the Department of Revenue the resources it needs because they will be returned many-fold if we do our job and do it well.

In all of this we've had great cooperation from the Legislature and, in fact, a good deal of the program that we proposed came out of discussions that we had with legislators—members of the Joint Taxation Committee and others, and consultations with people like Tom [panelist Tom Hogan] and



Gregg [panelist Gregg Miller] and their counterparts in other states. And just to repeat and conclude, all of the states in this nation find themselves in serious fiscal trouble as the result of an ongoing national recession and severe cutbacks on the federal side. Some 33 states have already raised taxes and many more are going to have to follow. All of us are in this boat together.

We're going to learn together, and we're going to work together. But for the immediate months ahead, at least in Massachusetts, our job is to make sure that a sense of credibility and an understanding that compliance with the law by everyone—not just the vast majority of our citizens—has got to be a central part of what we do. I'm confident, based on what I've seen over the course of the last few months working with the Legislature, that we're going to do it. We need a lot of help, a lot of understanding, and a lot of wisdom, and a good deal of advice and counsel from many of you who are professionals in this business, and who know a great deal more than I do about the subject and what we can do about it.

So thank you for having me, John, and I hope and expect that this will be a very successful seminar, as the other seminars that you have sponsored have already been, and I'm going back upstairs to call my accountant. [Laughter.] I have four envelopes on my desk and I've got to seal and send them off today to make sure that the Governor of the Commonwealth is in full compliance with the laws of both the Commonwealth and of the United States of America.

Thank you all very much.

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*Michael Dukakis served as Governor of Massachusetts from 1975 to 1979 and was re-elected as Governor in 1982.*

# New York's Experience: Observations of a Member of the Task Force on the Underground Economy

Thomas Hogan

This topic is one which is subject to a lot of controversy in both the public and private sectors. I'll give you my observations both as an administrator and as a member of New York's task force addressing the subject.

The term "underground economy" is used most frequently to describe economic activity characterized by a deliberate lack of record keeping and other forms of accountability, a prime objective of which is to evade taxes. As a result, most activities which can be labeled "underground economy" do not comply with federal, state and local tax laws. Such activities may relate to income earned by private individuals, businesses, and independent contractors, as well as to sales of goods, and even to exchanges not usually characterized as sales. Although "underground economy" is often used to describe criminal activities (such as drug trafficking, prostitution and gambling), it also includes unreported revenue from legal sources, including self-employment, bartering, and interest and dividends.

Recent studies indicate that the underground economy is growing at an alarming rate, and suggest that this tremendous growth is threatening voluntary compliance, which is the basis of the taxing system throughout the United States. Federal, state, and local governments nationwide face increasing frustration in attempting to deal with the underground economy.

In late 1981, James H. Tully, Jr., former Commissioner of Taxation and Finance in New York State, appointed a special task force to examine the economic impact and effect of the underground economy. In addition, this task force was charged with examining the equity and effectiveness of current statutes, regulations, and administrative procedures as they relate to tax compliance, and with recommending any necessary changes to curb the growth of the underground economy. Commissioner Tully appointed Commissioner Mark

Friedlander, a member of the State Tax Commission, as chairman of the task force, and Executive Deputy Commissioner Louis Martin Jacobson as executive director of the task force.

The task force first met in November 1981 and met periodically until December 1982, when it completed its study. From the beginning it was decided that transactions which are primarily the responsibility of law enforcement agencies (criminal activities) would be beyond the scope of this task force. The task force also excluded from




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*"... The very nature of the underground economy renders it elusive and extremely difficult to measure accurately."*

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its studies "above ground" activities such as tax havens and loopholes. The task force explored bartering, dividends and interest, resale and exemption certificates abuse, cash skimming, independent contractors, and the self-employed.

Early efforts involved collecting and analyzing various written materials published on the subject. In addition, information was exchanged with other states, including Massachusetts, and with the Internal Revenue Service. Existing departmental operations, policies, regulations and laws were examined to suggest means of improving tax compliance. The task force also attempted to provide figures, where possible, about the size of the underground economy and its economic impact on New York State. Many of those figures were based on New York State's share of the total United States income and on federal studies of unreported and underreported income.

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***"Recent studies indicate that the underground economy is growing at an alarming rate, and suggest that this tremendous growth is threatening voluntary compliance, which is the basis of the taxing system throughout the United States."***

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In attempting to quantify the size of the underground economy, two problems were encountered. First, the very nature of the underground economy renders it elusive and extremely difficult to measure accurately. Second, even where the federal government has tried measuring the underground economy, such efforts have not necessarily coincided with the needs of the states in this area. For example, a sales tax does not presently exist on the federal level. Consequently, when New York State wants to measure the revenue lost from sales tax evasion, it must extrapolate such information without help from federal sources. The methods used to measure the underground economy in New York State were complex, frequently original, and almost always, indirect.

As a result of the various efforts of task force members, initial reports were compiled which formed the basis of a preliminary task force report. The preliminary report was issued in June 1982, and was made available to the New York legislature, other state agencies, local governments, other states, professional groups, academic institutions, the media, and the public. Comments were elicited and were useful in formulating the final report.

Between June and November of 1982, the task force continued its study, discussed improvements in the preliminary report, reviewed the various reactions to the report, and completed its analysis. The draft final report was submitted to then Acting Commissioner Robert W. Bouchard in December of 1982. As a member of the task force, I can discuss in general the findings and statistical analysis contained in the draft final report. The final report is presently on clearance before it is released for publication.

### Size of the Problem

Estimates have been made that underreporting of income amounts to more than \$300 billion nationally. Revenue lost on federal income taxes has been estimated in excess of \$87 billion. It is apparent that underreporting is a growing and pervasive problem for all states as well as the national government.

Based on the 1980 calendar year, it is estimated that the total New York State underground economy is \$25 billion annually. Approximately two-thirds of that, or over \$18 billion, is attributed to legitimate source income. The remainder is attributed to illegitimate activities which were not included in the scope of this report.

The income from legitimate sources generated by the underground economy is estimated to represent a total New York State revenue loss of approximately \$2 billion: \$1.5 billion in corporate and personal income tax revenues and \$0.5 billion in state sales and use taxes. As previously stated, these estimates are for the 1980 calendar year, the latest year for which complete information is available, and **do not** include any New York City personal income tax revenue loss or any losses of local sales and use taxes. The following is a brief discussion of specific areas of concern which were studied by the task force.



## Bartering

Bartering is as old as civilization itself and the process of negotiating between individuals continues today. In addition, businesses of all sizes and from all industries are becoming increasingly engaged in bartering activities.

As late as 1979, the Internal Revenue Service did not include income gained from bartering as a variable in estimating the federal tax lost due to noncompliance. But the IRS has reviewed the individual components of the tax drain in an attempt to reinforce compliance in those areas found to be lax. Bartering is one of the areas identified. The total income generated from bartering, while difficult to determine, is estimated as high as \$250 billion. It is estimated that New York State loses a minimum of \$15 million solely from personal income tax because of underreporting of bartering income. In addition, some part of bartering income would be subject to sales and use taxes, so there is an undetermined additional revenue loss. Other sources suggest that bartering is becoming common practice in areas subject to business taxes.

The task force has thought of ways to make bartering organizations subject to closer scrutiny. It considered requiring bartering organizations to register and report under the provisions of our income tax and sales and use tax laws. In addition, since the IRS has increased its activities in the bartering area, a recommendation will be made to attempt to obtain more information from the IRS under our existing or amended exchange agreements. Of course, we will share the results of our efforts with the IRS.

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***“... New York State lost approximately \$150 million for tax year 1980 due to underreporting of interest and dividends.”***

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## Unreported Interest and Dividends

Unreported interest and dividends have gained a lot of attention on both the state and federal levels. The Tax Equity and Fiscal Responsibility Act of 1982 requires federal withholding on in-

terest and dividends. New York State has adopted a similar statute which will be implemented later this year if the federal provisions remain in place. It is estimated that New York State lost approximately \$150 million for tax year 1980 due to underreporting of interest and dividends. The IRS in 1981 estimated an \$8 billion federal tax loss due to underreporting. It is reasonable to estimate that the combined New York/federal reporting requirements for interest and dividends and simultaneous withholding should increase state revenue by up to \$125 million annually.

The task force has considered processing more cases by the additional information received from the federal government under their withholding program. Furthermore, it is recommending a cooperative program with respect to data entering of federal Form 1099 information returns. Additional computer-matching programs using internal computer files from which interest and dividend information is available, and direct taxpayer tapes with respect to information reporting, are being explored. This is targeted at New York State taxpayers who file with out-of-state addresses.

## Abuse of Exemption Certificates

In New York and in other states there is much concern over abuse of exemption and resale certificates. This abuse has been documented by an analysis of audit results. A thorough study was made of exemption certificate usage in other states, and some provinces of Canada, where many common problems exist. At the time of the report, Minnesota was the only other state of those canvassed which was contemplating an extensive program for controlling resale certificates to avoid abuse. We hope to share in their experience.

There are two major categories of certificate abuse: the tendering of fraudulent exemption certificates by unregistered, unauthorized, or ineligible individuals; and the misuse of exemption certificates by registered vendors. It is estimated that the overall state and local sales tax lost on an annual basis is approximately \$840 million. This \$840 million figure is composed of two factors. An estimate of \$704 million based on our audit history file and sales tax master file data, and an additional \$136 million relating to cash skimming. These estimates do not include nonfiling.



Recommendations being explored are five-year renewal of sales tax Certificates of Authority; use of standard industrial classification codes on sales tax registration certificates; and preprinted, prenumbered resale certificates incorporating additional measures to control abuses.

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***“... There are prosecutions pending where businesses openly have admitted to cash skimming and the keeping of two sets of books, one for the business and one for the ‘tax man.’ ”***

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### Cash Skimming and Dual Record Keeping

Cash skimming and dual record keeping have been found to be endemic to certain types of businesses. The probability of cash skimming and dual record keeping occurring has increased, especially where business is transacted predominantly in the cash medium.

The IRS has become increasingly active in attempting to curtail cash skimming and dual record keeping. Recently, in the New York City area, undercover IRS agents have posed as prospective purchasers of businesses. As a result of these investigations, there are prosecutions pending where businesses openly have admitted to cash skimming and the keeping of two sets of books, one for the business and one for the “tax man.”

New York has attempted in recent years to merge certain aspects of its sales and income tax programs. For example, where, as a result of sales tax audit, the findings show there are income tax implications, these implications are pursued.

It is estimated that the combined New York State income and sales tax losses from cash skimming and dual record keeping amount to approximately \$600 million annually. This estimated loss includes both state and local sales taxes, but does not include any losses under the New York City income tax.

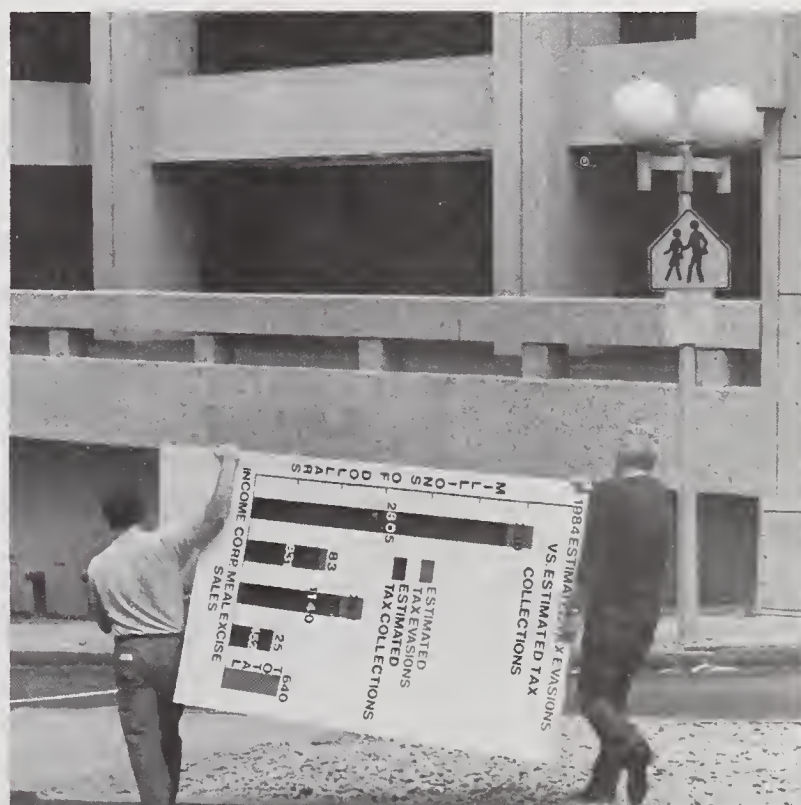
The task force is recommending additional audit coverage for businesses where cash transactions are routine. In addition, we are attempting to develop improved audit selection techniques to target particular types, sizes, and locations of businesses where the potential for abuse is greatest.

As an aside, New York is generally moving to increase all civil and criminal penalties for underreporting or nonreporting of income or receipts for all taxes. This will include substantial dollar amounts in terms of civil penalties and felony offenses under the criminal penalty provisions.

### Nonfilers

New York State, as many other states, is bothered by the proliferation of unlicensed street peddlers and flea markets. Also, as tax protester movements across the nation have become increasingly popular, the number of nonfilers is increasing, and as a result, the amount of taxes others must pay is increasing. In general, the department is attempting, by cooperating with the federal government and state and local government agencies, to improve its ability to identify these nonfilers.

It is estimated that New York loses about \$85 million in tax revenues because of nonfilers. The department has proposed a “squeal law” provision which would provide a monetary incentive for law-abiding taxpayers to report nonfilers. There were extensive recommendations proposed in this section, most of which require legislation, but relate primarily to New York statutes.





## Multiple Identification Numbers

At the present time, New York State does not have a common identification number file covering all taxes. I understand that Massachusetts has such a file. The Massachusetts Revenue Department has been most cooperative, as has been the State of New Jersey, in providing information on their common identification number bases.

The department is preparing to commit extensive resources to the development and maintenance of a common identification number system. The development of this system alone, we hope, will significantly improve compliance in all areas of taxation.

## Underreporting By The Self-Employed

The final major area the task force concentrated on was the underreporting of compensation by self-employed professionals and independent contractors. It is estimated that this underreporting accounts for a minimum of \$150 million of unreported personal income tax, with a significant additional amount for the groups of businesses and self-employed individuals included in the approximately \$350 million estimate due to cash skimming and dual record keeping. It is generally accepted that underreporting of income by self-employed professionals and independent contractors is in sharp contrast with the near-perfect reporting of income subject to withholding.

The task force is recommending looking at the feasibility of entering occupational information from personal income tax returns using records of other state agencies to identify underreporters and nonfilers, and instituting a withholding tax on payments for services made to independent contractors by those who are defined as employers subject to withholding under the personal income tax law. Another area to be explored is requiring tax clearances for the issuance or renewal of professional or occupational licenses granted by New York State agencies.

In conclusion, New York has made an extensive commitment to pursue its problems with the underground economy. There is no doubt that there is substantial tax revenue to be realized by curtailing or controlling these underground economic activities.

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***“... Underreporting of income by self-employed professionals and independent contractors is in sharp contrast with the near-perfect reporting of income subject to withholding.”***

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*Thomas Hogan has been with the New York State Department of Taxation and Finance since 1972. He has successively held the titles of Assistant Director of Tax Compliance, Director of Tax Compliance, Assistant Administrative Director and Assistant Deputy Commissioner.*



# Federal and State Tax Enforcement: A Cause in Need of a Constituency\*

Gregg Miller

Enforcement of federal and state tax laws is a particularly perplexing problem. That is, the underground economy is growing at an increasing rate; yet few, until recently, have come forward to support IRS and state revenue departments' efforts to do something about it. The American Bar Association's section on taxation sponsored an invitational conference on this subject on March 16-19, 1983 calling for Congressional action. The American Institute of Certified Public Accountants (AICPA) in January, 1983 published a report strongly recommending additional attention be given by Congress and the IRS to the underground economy. Several national magazines have, in the past year, identified this emerging problem and have suggested additional enforcement efforts.

With all of this support, why then is there not more of a sense of urgency at the federal level and at state capitols around the country? Perhaps, as Senator Robert Dole of Kansas recently said, "politicians need to screw up enough courage to face the problem and to allocate resources to tax enforcement."

Tax evasion is not a victimless crime. For every dollar that state revenue departments' audit and collection budgets are cut or not increased to meet the need, legislators need to raise between \$5 and \$8 in additional revenue by increasing current taxes or establishing new taxes to balance state budgets. For example, auditors in the Minnesota Revenue Department who audit corporations produce, per position, between \$460,000 and \$1,991,000 per year in additional tax liabilities for the state, depending upon their particular audit function. Reducing corporate claims for refunds generates \$460,000 per auditor, but is ranked at the top in dollars per hour because of the little time it takes auditors to audit these types of claims. Field audits are more time consuming but still produce over \$1 million per examiner. Field audits on individuals and small corporations generate over \$300,000 per

auditor, and this is at the low end of the audit scale. Further, the IRS and state revenue departments audit less than two percent of the taxpayers and have little or no resources to detect nonfilers and substantial underreporters in the underground economy. That is, tax enforcement is far from reaching the point of diminishing returns.

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*"... Tax enforcement is far from reaching the point of diminishing returns."*

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*"Tax evasion is not a victimless crime."*

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With demonstrated results of this magnitude, why then do state legislators and the national Congress hesitate to pass stronger collection laws and hesitate to add resources for tax enforcement? I suppose the problem, in part, has been the media coverage of tax enforcement in the past. We all remember on "60 Minutes" the IRS seizing a car from an individual in payment of a modest tax liability, or the IRS auditing some 15-year-old who was selling angleworms in upstate New York. These are obviously isolated incidents; but the media dwells on these because the taxpayers, in many cases, invite the media to cover these cases; and the media, on occasion, enjoys finding prob-

\* This article reflects the personal opinions of the author, and does not necessarily represent the views of the Minnesota Revenue Commissioner, Department of Revenue, Governor, or Legislature.



lems in government. Further, the IRS and the states are at a particular disadvantage because they cannot disclose, because of data privacy, the flagrant cases that the media should be covering, except in those instances where tax officials are criminally prosecuting an individual and can, therefore, give this information to the media.

In addition to the media's portrayal of isolated, incriminating incidents against the IRS and state revenue departments, the IRS and state revenue departments have problems with Congress or the state legislatures and with budget estimators in the Treasury Department and the state finance departments. Voters are quick to call or write their elected representatives when they feel threatened or harassed by an IRS or state audit. Occasionally, these audit assignments are unwarranted and are legitimately perceived as harassment; however, by and large, the vast majority of IRS and state audits are needed and have identified flagrant abusers of the tax laws. These taxpayers rarely contact their elected representatives; so, these representatives again are only aware of the negative incidents that have occurred, and carry this perception with them into budget hearings.

Budget estimators at the federal and state level perceive their roles as trying to find ways to cut expenditures in all government agencies, including tax enforcement programs. Those reviewing budgets of tax enforcement agencies frequently ask for proof that additional tax liabilities established under audit are actually collected during the same budget cycle. With taxpayers' appeal rights, litigation, etc., some additional tax liabilities established are, indeed, not collected in the same year in which they are assessed. However, if it were not for these activities, these additional liabilities would not even be established for collection. Perhaps the Federal Office of Management and Budget and state finance departments should roll up their sleeves and work with the IRS and the state revenue departments to help them document their case and make forecasts of the lead time necessary to collect an additional liability established through audit. Also, computerized tracking systems could be established to document collections from audit. Minnesota now has such a system.

In addition, the Federal Office of Management and Budget and state finance departments should work actively with the IRS and state revenue agencies to help forecast the increase in voluntary tax

compliance that is stimulated by establishing an audit presence. That is, sociologists have said that the public's willingness to comply with tax laws is directly related to the fear these taxpayers have of being audited. Professor Robert Mason from the University of Oregon at Corvallis has conducted two scientific studies of admitted tax evaders. These studies clearly prove that the more taxpayers suspect they will be audited, the greater their compliance. Again, media support is critical to increase this fear level. Not only should budget estimators work with the IRS and state revenue departments in helping them prove their case, but an effort should be made to reflect in state fund statements an estimate of tax collections attributable to involuntary or audit and collection methods, as opposed to those collections attributable to voluntary compliance with the laws. Again, this would give credit where credit is due and further establish the need for a viable tax enforcement effort. Oftentimes revenue forecasters at the federal and state level meet or exceed their estimates of collections because of tax enforcement efforts; yet, these tax enforcement efforts are rarely given credit for helping reduce federal or state budget problems. I suspect many state budgets would be in worse shape than they are now if it were not for the efforts of state tax enforcement.

I believe bond houses, too, should also recognize the value of strong tax enforcement in particular states and use this as one of their factors in establishing a bond rating for a state, thereby adding additional support for state audit and collection activities.

Many of the arguments mentioned above for audit could also be mentioned for collection of accounts receivable. Yet, some people reviewing budgets and some people on legislative committees believe that tax enforcement simply establishes large, additional tax liabilities and transfers them to the accounts receivable system; and that the tax enforcement agency double counts these figures when they talk about the productivity of their agency or the dollars that they have produced for the state. In reality, over 80 percent of the dollars on the accounts receivable systems in most states are attributable not to audit, but to taxpayers voluntarily filing self-assessed tax returns to avoid additional penalties, but not remitting funds with these returns because of cash flow or management problems. Again, budget reviewers need to work



with the IRS and state revenue departments to help them prove that there is no double counting and that resources are needed in the collection area, in addition to the audit area. People in state revenue departments are just not as skilled as others in preparing budget requests and documenting legal, computer and staff needs.

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***“... The public’s willingness to comply with tax laws is directly related to the fear these taxpayers have of being audited.”***

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What is the magnitude of tax evasion or the tax gap? The new daily newspaper, *USA TODAY*, recently reported that nine states alone are losing upwards of \$4 billion in tax revenue per year. California is losing approximately \$2 billion a year, in spite of an automated computer system that in tax year 1980 identified 368,000 suspected nonfilers and underreporters and established \$319 million in additional tax liabilities, of which they collected approximately \$100 million through their automated system and are still pursuing collection on the additional \$219 million. Illinois reports it is losing \$900 million per year; Ohio \$279 million, and, in Minnesota the range is between \$300 million and \$700 million when one takes into account nonfilers and underreporters, as well as \$120 million in our accounts receivable system and at least \$50 million from nonresident nonfilers, including corporations and individuals. The IRS estimates that it will be losing approximately \$125 billion by 1985; and the General Accounting Office, in a July 1982 report, estimated this figure is extremely conservative because the IRS principally uses internal records to arrive at their estimate, as opposed to the methods the states are using.

Essentially, honest taxpayers are paying anywhere between 20 percent and 40 percent more than they need to because a small but significant number of people do not even file a return, or substantially underreport their income. Over 75 percent of the problem at the national level is related to unreported income from legal as opposed to illegal activities. Of this amount, several studies zero in on the closely-held corpora-

tion and the sole proprietor, in addition to self-employed people whose wages are not subject to withholding. Some studies of liquor license holders (principally those operating bars and restaurants) estimate that they underreport their income by as much as 50 percent.

Taxpayers are just now becoming angry that they are paying between 20 and 40 percent more than they need to. This anger needs to be channeled to the lawmakers and policy setters. Many tax preference items, incentives, or tax shelters that have failed to stimulate the level of investment or provide the social purpose intended should be abolished so the system is perceived as more fair by the average taxpayer. In addition, this anger needs to be channeled in support of increased tax enforcement. The undesirable alternative is an increase in the underground economy and a collapse of the voluntary tax system as we know it.

The value-added tax is a dismal failure in most European countries, and a “flat tax” still will not tax nonfilers and underreporters—therefore, either one will throw a greater burden on the middle class.

The constituency of the IRS and state revenue departments is people at the grass roots level—average law-abiding taxpayers. This silent majority should cease being silent and insist that tax enforcement get everybody to pay his/her fair share. The tax base is there. We just need to ensure that it is not eroded by social or tax preference items or lack of tax enforcement.

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*Gregg C. Miller has a Master’s of Engineering Management degree from the University of Southern California and a Bachelor’s degree in Accounting from St. Cloud (Minn.) State University. Since 1977 he has been Minnesota’s Assistant Commissioner of Revenue for Audit and Collection.*

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***“Taxpayers are just now becoming angry that they are paying between 20 and 40 percent more than they need to. This anger needs to be channeled to the lawmakers and policy setters.”***

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# A Program for Combatting Tax Evasion in Massachusetts

Ira Jackson

I welcome the opportunity to address the subject of tax evasion in Massachusetts. As the Governor has reported, our latest research shows it's become a problem of epidemic proportions. In 1984 it will cost the Commonwealth an estimated \$640 million, equal to 12 percent of our total estimated revenues.

Let me emphasize first that tax cheating remains the exception and not the rule. The vast majority of working men and women **do** meet their lawful obligations. Unfortunately, they end up subsidizing the evaders. And that's the primary reason the Department of Revenue feels that tax evasion is such a serious matter.

Our 1984 tax evasion estimate is based on a recent study by tax professionals in our Audit Bureau and our Planning and Research Division, headed by Deputy Commissioner Dan Breen. Estimates were based on federal research on personal income tax evasion rates and a 1981 Department of Revenue study on the estimated loss from the underground economy. A full description of our methodological approach is available.

Our estimates are markedly conservative compared to studies done in other states and to academic economic analyses. We have been cautious, reporting only what can be supported by empirical evidence and federal studies. Still, we project an appalling 1984 revenue loss of \$640 million, representing \$8.5 billion in unreported economic activity.

Of the total \$640 million tax loss, \$280 million will be due to personal income tax evasion. According to the IRS, a substantial portion of that loss stems from nonfilers. That massive number shows the problem is not limited to our stereotype of the moonlighter or the plumber who doesn't report cash income. It includes high-income professionals who duck their legal obligations.

Equally appalling is the rate of sales and meals tax evasion. We conservatively estimate \$252 million lost in these areas alone—a 22 percent rate of evasion. And in these cases, evasion is outright theft.

Corporation taxes and excises on cigarettes, motor fuels and alcoholic beverages account for the remaining \$108 million in estimated lost revenue for 1984. The \$640 million tax-loss estimate does not include income generated by criminal activity, which most experts say would boost the number 10 to 30 percent.

Our chart shows the proportion of evaded taxes for each source. If added to our estimated \$5.5 billion in 1984 revenues, these evaded taxes could boost state revenue to \$6.14 billion. With that extra income, no increase in taxes would be needed for years to come.

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***"Of the total \$640 million tax loss, \$280 million will be due to personal income tax evasion."***

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***“. . . Millions of dollars are due in tax payments from doctors, pharmacists, and nursing homes, scores of whom are outright nonfilers.”***

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### **Goal: Full Tax Collection**

We have begun to move toward the goal of full tax collection. Yesterday, I made public a list of business trustee tax delinquents owing more than \$5,000 in meals, sales, and/or withholding taxes. Altogether, the 4,284 people on that list owe almost \$100 million in back tax payments. We have begun a major crackdown on these tax delinquents and we are convinced that that effort will have ramifications for tax evasion.

Let me spell out some of the things already being done. Our Data Service Bureau runs a model wage reporting system. It's a massive job involving collecting data on wages from employers and then matching that with public assistance files. The program has already saved the state millions of dollars by curbing fraudulent assistance payments. Last month we implemented a new, legislatively mandated refund diversion program for delinquent fathers of AFDC children. By the end of the tax season it's expected the program will have captured \$1.25 million—money the Welfare Department won't have to pay. We're also turning our attention to the providers of reimbursed services. Our recently initiated Medicaid vendor project crosschecks state payments with tax returns. First computer runs of this program indicate millions of dollars are due in tax payments from doctors, pharmacists, and nursing homes, scores of whom are outright nonfilers.

More department improvements are being made. To head the Audit Division, which handles the whole area of tax investigation and collection, we have been able to recruit Max J. Singer. Max brings to the department the skills and leadership developed through a 30-year career in similar work with the IRS.

Even though we're making progress, administrative efforts alone won't get us to our goal. That's why Governor Dukakis put together the Revenue Enforcement and Protection Plan known as REAP. It will provide the Department of

Revenue with a whole new arsenal of weapons against tax delinquents and cheaters. There are 16 different elements in the REAP program. Let me highlight four that significantly impact upon tax evasion.

### **Stiffer Penalties**

For starters there should be stiffer penalties. Massachusetts law is significantly more lenient than the federal code. Tax fraud here is only a misdemeanor, punishable by a maximum of one year imprisonment and a \$10,000 fine. For some of the major offenders, tax evasion may appear to be worth the risk. REAP proposes adoption of the stiffer federal scale of penalties and their deterrent effect. Major offenders should do time behind bars.

With legislative approval of increased penalties, we can more effectively pursue the major tax evaders in the Commonwealth. Already, in cooperation with the Attorney General, we are developing criminal 'impact' cases against major tax evaders. We're convinced these will give us the maximum bang for our prosecutorial buck, and with a much increased deterrent effect.

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***“Tax fraud here is only a misdemeanor, punishable by a maximum of one year imprisonment and a \$10,000 fine. For some of the major offenders, tax evasion may appear to be worth the risk.”***

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### **Licensing Control**

A second REAP initiative would require state and local licensing boards to provide annual, computerized lists of all individuals and businesses with licenses to conduct trade. If the Department of Revenue finds any serious delinquency or tax evasion among them, it would initiate a hearing for suspension of the offenders' licenses.

A similar process would cover over 80,000 businesses or professionals contracting to provide services to the state. As I mentioned previously, we have already begun to match the income reported by state reimbursed Medicaid vendors with the payments we know they have received. REAP



would empower us to remove tax offenders from the list of eligible vendors. We see no reason to let them continue to receive state payments if they don't meet tax obligations. Finally, REAP would upgrade our computer technology—an essential element in enhancing our audit capability.

All this, however, depends on public support. There must be a heightened awareness of the point that all of us on the panel have made: *tax evasion is not a victimless crime*. We must acknowledge our basic obligations as citizens and grow up as a society. To aid in the process, I suggest a six-point program.

Six-Point Program

First, we need a grass-roots movement among the honest taxpayers and the organizations which represent their legitimate interests. They must stand up in outrage against the tax evaders whom they currently subsidize. *All* of us pay for tax evasion. *All* of us must work to develop a sense of community scorn about it.

Hand in hand with that citizen movement should be a public service campaign by the media about the costs of tax evasion. We need to change attitudes about tax cheating—much as attitudes have been changed about drunken driving. We *can* alter the conception of tax evasion as the “in” thing to do. We must convince people that it is the *wrong* thing to do.

Part of our tax problems stem from anger over perceived excesses in government spending and mismanagement in government programs. That gets to my third point. We in state government must do a better job of managing scarce public resources and avoiding abuses. The many state agencies which effectively fulfill their mandate need to convey to the public what their programs mean to a wide range of individuals across the state. Better and more extensive communication about the goals and purposes of state agencies can meet this need. Let's develop and then promote a government which we can be proud of. Let's rekindle the commitment to the basic public purposes of our government.

Tax evasion is exacerbated by complex tax forms. So a fourth component of this plan is to simplify tax law and to make the process easier to understand. We are gathering material from other states and the federal government to provide us with alternative models for simplifying our tax

forms. We intend to make an often painful process less confusing and less demanding. Additionally, we want to close glaring loopholes. We cannot continue to have the average taxpayer feel he or she is getting ripped off while special interest groups get special breaks.

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***“We cannot continue to have the average taxpayer feel he or she is getting ripped off while special interest groups get special breaks.”***

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1984 Massachusetts Tax Evasion Estimate	
Tax Source	Revenue Loss
Personal Income	\$280 M
Corporations	83 M
Trustee Taxes:	
Meals and Sales	252 M
Excises	25 M
<b>Total Tax Evasion</b>	<b>\$ 640 M</b>
Plus 1984 Estimated Tax Revenue	5.500 B
<b>Estimated Revenue If No Evasion</b>	<b>\$6.140 B</b>

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- Evasion represents 12% of Estimated Tax Revenue.
- Evasion represents \$8.5 Billion in Unreported Economic Activity.
- Estimate does not include tax evasion for organized criminal activity.

Source: Department of Revenue, April 1983.

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My fifth point is to improve our taxpayer service. We are the only state agency that every year affects every citizen intimately and personally. We should do so with a friendly face and a human touch. That means a speeded-up refund process for the 1.8 million people who have money due. This year, I'm proud to say, we've cut that processing time in half. There must be accessible, competent assistance for the taxpayers who turn to the department for help, as 450,000 people have done this year. Toward that end, tomorrow night, April 15, 1983, we'll be staying open at the Saltonstall Building until 11:59 p.m. We'll be offering last-minute assistance and a friendly welcome to those who procrastinated on filing tax returns until the 11th hour. We're already conducting a program to complete tax forms for the elderly and handicapped. Our assistance extends to corporations and small businesses to lend them the support needed in a constricted economy. Bilingual tax forms are in the works for next year. In sum, we want to show people that we're in business not only to collect their money, but to serve them as well.

The final element of the program to combat tax evasion calls for making tax enforcement more visible. Our recent actions against major tax delinquents are part of an effort to attach public sanctions to all kinds of tax evasion. That means embarrassing offenders when necessary. We intend to demonstrate visibly, as a warning to other potential evaders, that the Massachusetts Department of Revenue means business.

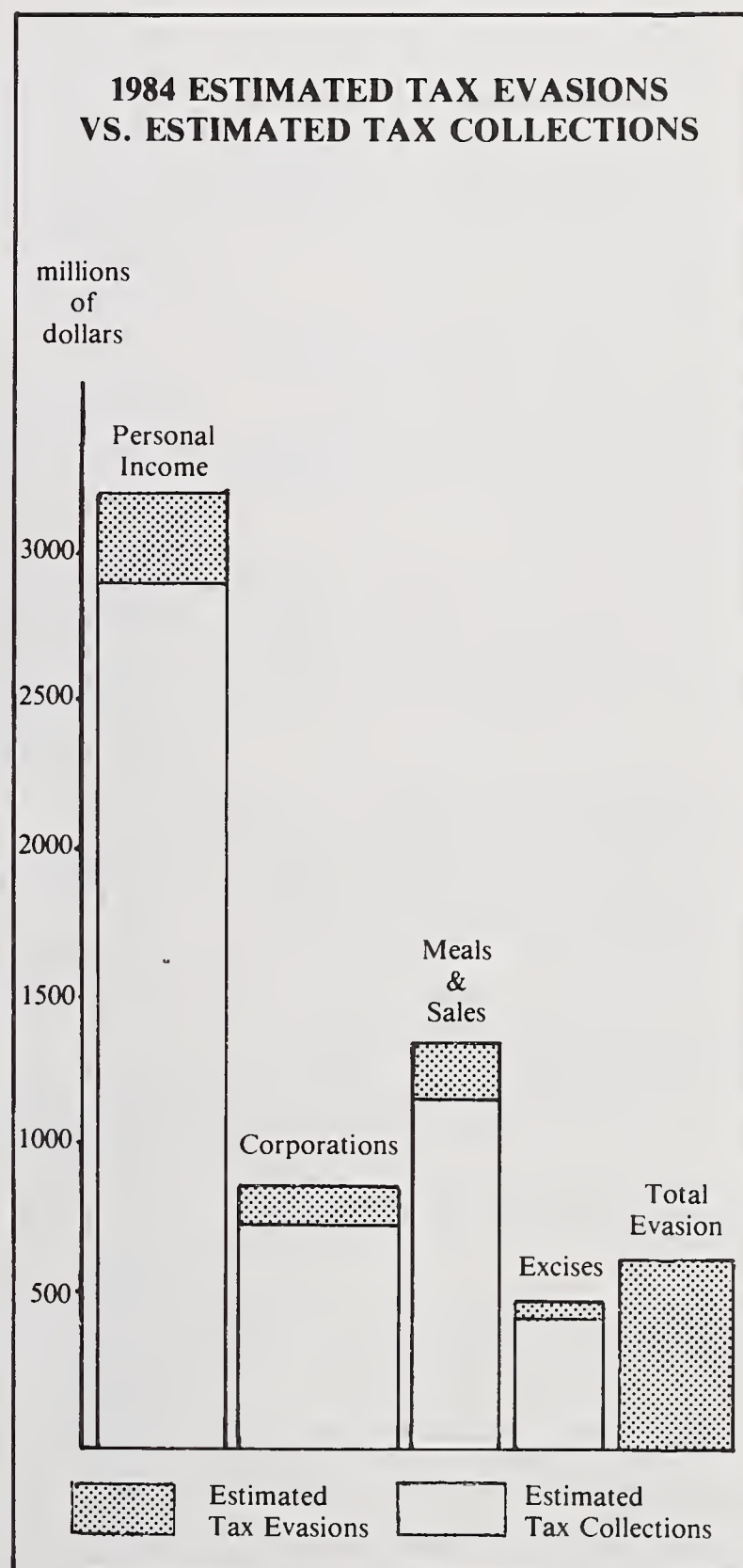
I think we can make some inroads on the appalling evasion estimates you have heard about today, but we can't do it alone. We need the support of the legislature, the media and, most importantly, each and every citizen to help us maximize tax revenues and thereby minimize tax burdens.

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***"We intend to demonstrate visibly, as a warning to other potential evaders, that the Massachusetts Department of Revenue means business."***

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*Ira A. Jackson, former Associate Dean and Executive Officer of the John F. Kennedy School of Government at Harvard University, was appointed Commissioner of the Massachusetts Department of Revenue on January 8, 1983 by Governor Michael Dukakis. The Department is responsible for the administration of the Commonwealth's tax laws and annually collects some \$5 billion in state taxes.*





# Appendix A:

## The Underground Economy

### Topic Bibliography Number 58

Legislative and Governmental Services Division  
New York State Library, Albany

"Answers that Unveil the Underground Economy," **Business Week**, October 11, 1982, p. 14.

Harris poll concludes that as many as 30% of all American households have some member working in the underground economy.

"Barterers Beware," **Forbes**, August 17, 1981, pp. 102-103.

Discusses IRS' attempt to force barter clubs to report all income from trading activity.

"Clandestine Employment: A Problem of Our Times," R. DeGrazia, **International Labor Review**, September - October 1980, pp. 549-583.

Economic impacts of phenomenon on European countries.

"Currency and the Subterranean Economy," R.D. Laurent, **Economic Perspectives**, March/April 1979, pp. 3-6.

Citing the substantial decrease in currency, author concludes that the underground economy probably doesn't account for one-tenth of the GNP.

"Dealing with Tax Invaders," B. Crickmer, **Nation's Business**, August 1982, pp. 30-31.

Argues that proposed Federal legislation to enforce tax compliance will put unfair burdens on businesses without closing down the underground economy.

**Estimates of Income Unreported on Individual Income Tax Returns**, U.S. Internal Revenue Service, 1979, 166 pp.

This report presents the findings of an Internal Revenue Service study team designated in the spring of 1978 to evaluate the unreported income problem.

"Flea Markets Luring More Retailers," **New York Times**, August 28, 1982, p. 35.

Describes popularity of flea markets in New York State and resultant problems of State tax officials concerning unreported income.

"The Genteel Subversives," J. W. Williamson, **The Progressive**, April 1981, pp. 24-26.

Effect of bartering on the underground economy.

"The Hidden Economy," L. Silk, **New York Times**, April 27, 1979, p. D2.

Brief description of the problem.

"Honesty May Be the Best Tax Policy If Tax Compliance Bill Becomes Law," T.B. Clark, **National Journal**, July 24, 1982, pp. 1292-1296.

Description of IRS proposal to raise an estimated \$9 billion from the underground economy.

"How Big Is the Irregular Economy?," E. L. Feige, **Challenge**, November - December 1979, pp. 5-13.

Uses a microeconomic approach measuring the extent of the underground economy, which is described as "of staggering proportion and growing rapidly."

"Is U.S. Growth Understated Because of the Underground Economy? Employment Ratios Suggest Not," E.F. Denison, **Review of Income and Wealth**, March 1982, pp. 1-16.

The article explains briefly the relationship between income tax evasion and errors in measuring the various components of charges against GNP. It also explains how illegal activities are meant to be handled in GNP measurements.

"Latest Notes from the Subterranean Economy," P. Gutmann, **Business and Society Review**, Summer 1980, pp. 25-30.

Estimates the extent, examines the societal implications, and discusses remedies for the underground economy.

**New York State's Underground Economy: Untaxed and Growing**, New York (State) Legislature, Assembly Committee on Oversight, Analysis and Investigation, 1982, 13 pp. plus appendix.

Provides background information on the underground economy, a rationale for its existence, estimates of its impact on the State's economy, and conclusions and recommendations.

**Preliminary Report**, New York (State) Task Force on the Underground Economy, 1982, v.p.

Includes study reports on seven different sectors of the underground economy and estimates its impact on the State's economy.

"Statistical Illusions, Mistaken Policies," P.M. Gutman, **Challenge**, November - December 1979, pp. 14-17.

Argues that a prohibitive tax structure has led to the growth of the underground economy.

**The Subterranean Economy**, D. Bawly, 1982, 187 pp.

Blames the underground economy on "the presumptuous attempts of postwar governments to eradicate poverty through 'big government' welfare programs and mismanaged high taxation policies."

**Subterranean or Underground Economy: Hearings**, U. S. Congress, House Committee on Government Operations, Commerce, Consumer, and Monetary Affairs Subcommittee, 1979, 236 pp.

"The Subterraneans," P. M. Gutman, **Psychology Today**, April 1980, pp. 15-16.

Proposes the imposition of a national Value Added Tax to combat the underground economy.

"Tax Dodging—It's a Worldwide Phenomenon," **U. S. News and World Report**, March 8, 1982, pp. 37-39.

Moonlighting, bartering, under-the-table payments—they're just some of the ways otherwise honest workers cheat their governments.

"Thanks to Off-the-Books Income, Consumers Save More than Meets the Eye, Economists Say," A. L. Malabre, Jr., **Wall Street Journal**, June 11, 1982, p. 50.

Argues that because Federal Reserve data on savings reflect the "underground income," they are more reliable than Commerce Department figures.

"Thoughts on the Underground Economy," C. J. Haulk, **Federal Reserve Bank of Atlanta Economic Review**, March/April 1980, pp. 23-27.

Warns that, if the underground economy is as large as fifteen percent of the national GNP, policy makers may be overstimulating rather than restricting the economy.

"Uncovering the Underground Economy," M. Caplin, **Wall Street Journal**, March 31, 1980, p. 20.

Argues for stricter laws against participants in the underground economy, who "place a heavy burden on the overwhelming majority of honest taxpayers."

"The Underground Economy and the Theft of Utility Services," A. J. Donziger, **Public Utilities Fortnightly**, November 22, 1979, pp. 23-27.

Estimates volume of utility services which are obtained by theft and thereby provide no income for utilities.

"The Underground Economy: Estimates of Size, Structure and Trends," C. P. Simon and A. D. Wittenid, 51 pp. (in U. S. Joint Economic Committee, **Special Study on Economic Change**, pp. 70-120.)

Reports on two sectors of the underground economy: unreported production and trade of legal goods and services, and production and distribution of illegal goods and services.

**The Underground Economy: Hearing**, U. S. Congress, Joint Economic Committee, 1979, 76 pp.



**Underground Economy: Hearings**, U. S. Congress, House Committee on Ways and Means. Subcommittee on Oversight, 1980, 501 pp.

"The Underground Economy: How 20 Million Americans Cheat Uncle Sam Out of Billions in Taxes," **U. S. News and World Report**, October 22, 1979, pp. 49-51.

"Some 26 to 104 billion dollars a year in tax revenues, depending on the estimate of the size of the underground economy, are lost to the federal government alone."

"The Underground Economy in the United States: Estimates and Implications," V. Tanzi, **Banca Nazionale del Lavoro Quarterly Review**, December 1980, pp. 427-453.

Explains the origins of the underground economy, its growth in the United States, and how it distorts economic projections and, eventually, economic planning.

**The Underground Economy in the United States and Abroad**, V. Tanzi, ed., 1982, 340 pp.

Editor concludes that the importance of the underground economy may be exaggerated by journalists.

"Underground Economy: \$100 Billion in Lost Taxes," **U. S. News and World Report**, April 15, 1982, pp. 48-49.

Describes the participants in the underground economy.

"The Underground Economy's Hidden Force," **Business Week**, April 5, 1982, pp. 64-70.

Argues that the underground economy masks growth, distorts policy and undermines government.

"The Underground—No Recession There," P. W. MacAvoy, **New York Times**, July 4, 1982, Sect. 3, p. 3.

Describes the extent to which the underground economy has grown, its impact, and possible solutions.

"The Untaxed Millions," T. Schultz, **New York Times Magazine**, March 16, 1980, pp. 42+.

"Many Americans are now not reporting their true incomes—overburdening those who do. Some experts are blaming, in part, the I.R.S."

"Will the *Real* Economy Please Stand Up?," H. Henderson, **Christian Science Monitor**, May 3, 1982, p. 23.

Seeks to differentiate between the underground economy, symbolized by the Mafia, and the "Counter-Economy," which is defined as "nonmarket, socially cohesive work."

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# Appendix B: Summary — REAP

## An Act to Provide a Revenue Enforcement and Protection Program for the Commonwealth St. 1983 c. 233 of the Massachusetts General Laws Prepared by Michael Capuano

### Introduction

On March 3, 1983, Governor Dukakis submitted a special message to the Legislature entitled An Act to Provide a Revenue Enforcement and Protection Program for the Commonwealth, H. 5893. The Governor estimated this proposal would raise \$130.3 million for FY 1984.

On March 10, two sections of this bill concerning the gasoline tax were acted on separately, H. 5902. This bill set an eleven cent floor on the gas tax. It became law on March 30, and applied to all gas sales made on and after April 1, 1983; see St. 1983 c. 21. The Governor estimates that this law saved \$48.2 million in FY 1984 tax revenue that would have otherwise been lost due to falling gasoline prices.

The remaining portions of H. 5893 were acted on later and amended, eventually becoming Chapter 233 of the Acts of 1983. Current estimates from the Governor's office show an estimated \$97.2 million revenue increase for FY 1984.

This summary consists of three sections: a brief sectional summary, a legislative history, and a detailed summary. **The effective date for all sections is July 1, 1983, unless otherwise stated.**

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*Attorney Michael Capuano is on the staff  
of the House Taxation Committee.*

### Brief Sectional Summary

#### Section / Explanation

- |   |   |  |
|---|---|--|
| 1. Advanced assessment of M.V. Insurance Merit Board costs on insurance companies.  | 11. Updates income tax references to federal code to 2/1/83. Effective 1/1/83.  | 22. Increases limits for no-tax status for 1985 from \$3600/\$6100 to \$4400/\$7200. Effective 1/1/85.   |
| 2. New Rate Setting Commission assessment on hospitals:<br>a) exemption for municipal hospitals<br>b) state costs must be covered for rate setting<br>c) provision for hospitals with different FY. | 12. Disallows federal exclusion of interest from "all savers" accounts and new federal net-interest exclusion. Effective 1/1/83.                                  | 23. Increases limits for no-tax status for 1986 and thereafter from \$4400/\$7200 to \$5000/\$8300. Effective 1/1/86.                                      |
| 3. Limits UJIB tax benefits to facilities completed prior to 6/30/85. Effective 1/1/84.   | 13. Disallows federal exclusion of reinvested public utility dividends. Effective 1/1/83.   | 24. Subjects Massachusetts' gambling and lottery winnings of non-residents to income tax. Effective 1/1/83.  |
| 4. Assures continued qualification as an "eligible section of substantial poverty" during the 10-year period of any UJIB credit. Effective 1/1/84.  | 14. Reduces capital gain deduction from 60% to 50 %, thus increasing effective tax rate from 4.3% to 5.375%. Effective 1/1/83.                                    | 25. Eliminates \$4/\$8 low income tax credit. Effective 1/1/84.  |
| 5. Advanced assessment of DPU administrative costs on utility companies.  | 15. Disallows federal two-earner married couple deduction. Effective 1/1/83.  | 26. Requires Mass. withholding on pensions when taxpayer chooses to allow federal withholding. Effective 1/1/83.   |
| 6. Advanced assessment of rating bureau costs on insurance companies.   | 16. Disallows federal deduction for legislator's expenses. Effective 1/1/83.  | 27. Requires 5% withholding on gambling winnings (except horse and dog racing) which are subject to federal withholding (generally, winnings over \$5000). |
| 7. Advanced assessment of AG costs related to rate setting on insurance companies.  | 17. Limits deductions for contributions to Social Security, Railroad Retirement, or governmental pension plans to \$2000 per taxpayer per year. Effective 1/1/83. | 28. Strengthens DOR oversight powers re number of dependents claimed.  |
| 8. Allows copies of voter registration forms to be sent to DOR and RMV.   | 18. Same as s. 17 above. Effective 1/1/83.  | 29. Repeals current law re: withholding penalties.   |
| 9. Requires local officials to make copies of voter registration forms available to DOR and RMV.  | 19. Updates Mass. child care deduction to reflect 1981 Federal changes. Increase from \$2000/\$4000 to \$2400/\$4800. Effective 1/1/83.                           | 30. Adds new law on withholding penalty re employees.  |
| 10. Requires DOR to use information from voter registration form in tax investigations and to send lists to the RMV.  | 20. Increases personal exemption for non-working spouses from \$800 to \$1000. Effective 1/1/83.  | 31. Requires 3.5% withholding on state and local personal service contractors (except certain health care vendors). Effective 1/1/84.                      |
|   | 21. Increases limits for no-tax status for 1984 from \$3000/\$5000 to \$3600/\$6100. Effective 1/1/84.  | 32. Requires 18% interest on underpayment of estimated personal income taxes.  |



33. Updates tax administration reference to federal code to 7/1/83. Effective 1/1/83.
34. Requires 18% interest on overdue taxes. Effective 1/1/83.
35. Sets out procedures for suspension or revocation of certain licenses for tax crimes. Effective 1/1/83.
36. Sets out requirements for non-issuance or non-renewal of certain licenses and contracts for tax crimes. Effective 1/1/83.
37. Sets out a 10-year statute of limitation on the collection of taxes. Effective 1/1/85.
38. Allows DOR to contract with other states for the mutual collection of the other states' sales and use taxes.
39. Specifically allows DOR to change procedures for issuance of sales tax exemption certificates if needed.
40. Clarifies definition of "person" for tax crime penalties.
41. Sets out new, stiffer criminal penalties for tax law violations.
42. Deletes 50-mile limit for mortgage deduction for savings banks and specifically includes federally chartered savings banks under the tax system. Effective 11/1/82.
43. Limits use of corporate tax credits so pre-credit tax due cannot be reduced more than 50%; also allows unlimited carry-forward of unused credits. Effective 1/1/83.
44. Allows DOR to create new apportionment methods for any type of industry group. Effective 12/31/83 (tax years ending on or after).
45. Subjects utilities to a 3-factor apportionment formula. Effective 12/31/83 (tax years ending on or after).
46. Requires 18% interest on underpayment of estimated corporate taxes.
47. Raises cigarette excise tax from 21 cents per pack to 26 cents. Effective 7/11/83.
48. Transfers power to sell seized illegal cigarettes from Public Safety to DOR.
49. Increases penalties for illegal cigarette sales.
50. Increases penalties for illegal transportation of cigarettes.
51. Expands DOR police powers re seizure and sale of illegal cigarettes.
52. Limits effective period of certificate of exemption from sales tax to 5 years.
53. Exempts certain gifts of scientific equipment from sales tax. Effective 1/1/83.
54. Repeals old law re: penalty for misuse of sales tax certificates (see s. 41 for new law).
- 54a. Repeals old law re: penalty for misuse of sales tax certificates (see s. 41 for new law).
55. Requires harbor masters to report on non-Mass. boats moored in Mass. waters.
56. Repeals old law re: penalty for misuse of use tax certificates (see s. 41 for new law).
57. Repeals old law re: penalty for misuse of use tax certificates (see s. 41 for new law).
58. Imposes partial sponge tax on generation-skipping transfers.
59. Dissolves Motor Vehicle Inspection Fund and transfers money to Highway Fund. Effective 6/30/83.
60. Doubles speeding fines. Effective 9/1/83.
61. Repeals certain prior speeding fines. Effective 9/1/83.
62. Increases RMV surcharge on unpaid parking tickets and requires 2 such tickets prior to license/registration revocation. Effective 9/1/83.
63. Same as s. 62 for Boston and Cambridge. Effective 9/1/83.
64. Requires bottlers and distributors to make monthly reports on bottle deposits.
65. Adds costs of fringe benefits to charges made by the Racing Commission.
66. Sets Unemployment Insurance tax rate at Schedule D for CY 1984. Effective 1/1/84.
67. Adds new excise on wages for CY 1984 and deposits all receipts therefrom into new, separate Economic Development Fund. Effective 1/1/84.
- 67a. Repeals section 67 of this act. Effective 1/1/85.
68. Establishes the Economic Development Fund, specifies the use of monies from said fund, and requires annual reports on U.I. Trust Fund from DES.
69. Advanced assessment of costs re: Energy Facilities Siting Council on electric and gas companies.
70. New assessment on banks for costs of the Commissioner of Banks office.
71. New assessment on domestic insurance companies for the cost of audits.
72. Advanced assessment of Mass. Firefighters Academy costs on insurance companies.
73. Clarifies present law re abandoned intangible personal property. Effective 6/30/83.
74. Requires courts to consider health insurance coverage in all alimony orders.
75. Requires courts to consider health insurance coverage in all maintenance orders.
76. Requires orders for support of a spouse and child to include health insurance.
77. Requires alimony to include health insurance.
78. Requires pending wage assignment orders to insure alimony and child support payments.
79. Requires health insurance in payments of maintenance and support.
80. Requires pending wage assignment orders to insure payment of support orders.
81. Requires payor of maintenance to include health insurance.
82. Establishes a penalty for impersonating a revenue officer.
83. Requires court to consider health insurance coverage in all maintenance orders.
84. Requires support payments to include health insurance and requires pending wage assignment orders to insure payments of such orders.
85. Requires support payments to include health insurance and requires pending wage assignment orders to insure payment of such orders.
86. Earmarks increased revenues from new speeding fines (see s. 60) for Highway Fund. Effective 9/1/83.
87. Increases RMV surcharge on unpaid parking tickets and requires 2 such tickets prior to license/registration revocation in Boston. Effective 9/1/83.
88. Advanced assessments of Medical Malpractice Insurance Commission costs on insurance companies.
89. Advanced assessments of E.O.E.R. and D.P.U. costs on utility companies.
90. Prohibits use of U.I. taxes for DES administrative costs related to new wage excise (see s. 67).
91. Commissioner of Revenue to make quarterly reports on revenue effects of REAP.
92. RMV surcharge on parking fines which are collected by municipalities to be collected by the State Treasurer. Effective 9/1/83.
93. Authorizes evening and weekend rental of most state-owned parking facilities.
94. Limits new 18% interest rate on overdue taxes to prospective use.
95. Levies floor tax on cigarette inventory in state as of July 11, 1983.
96. Authorizes private collection of overdue DPH charges, but only if payor is a third-party and only after proper notice and demand. Contractors to be selected from public bids.
97. Authorizes private collection of overdue DMH charges, but only if payor is a third-party and only after proper notice and demand. Contractors to be selected from public bids.
98. Authorizes a 3-month amnesty period for tax delinquents during FY 1984.
99. Authorizes private collections of overdue taxes, but only after proper notice. Contractors to be selected from public bids. Report on program required. Program to end September 15, 1985.
100. Commissioner authorized to compromise tax liabilities. Specific requirements set out. Agreements open to public inspection. Annual report on program required. Program to end September 15, 1985.
101. Effective dates.



## Basic Legislative History

### I. H 5893 (Governor)

A message from His Excellency the Governor recommending legislation relative to providing a revenue enforcement and protection program for the Commonwealth.

03/08/83 Referred to the committee on TAXATION — HJ 105

03/10/83 H Reported in part (so much as relates to sections 31 and 42) see H5902 — HJ 125 (re: Gasoline Excise — see VII below).

05/03/83 H Bill reported favorably by committee and referred to the committee on HOUSE WAYS AND MEANS—HJ 649-650.

05/26/83 H Committee recommended ought to pass with an amendment, substituting therefore a new draft, see H6380.

06/01/83 H Substituted by H6380, amended — HJ 974.

### II. H 6380 (House Ways and Means)

Bill to provide a revenue enforcement and protection program for the Commonwealth.

06/01/83 H Ordered to a third reading — YEAS 95, NAYS 53. See Yea and Nay in Supplement, No. 218.

06/02/83 H Read third.

06/02/83 H Reprinted, as amended, see H6440 — HJ 996-1002.

### III. H 6440 (House Ways and Means, as amended)

Bill to provide a revenue enforcement and protection program for the Commonwealth.

06/02/83 H Passed to be engrossed — YEAS 79, NAYS 49. See Yea and Nay in Supplement, No. 233.

06/09/83 S Read; and referred to the committee on SENATE WAYS AND MEANS — SJ 666.

06/14/83 S Senate Committee on Ways and Means recommending ought to pass with an amendment, inserting in place thereof the text of S2076.

### IV. S 2076 (Senate Ways and Means)

Text of the amendment (printed as amended), recommended by the committee on Senate Ways and Means, to the House Bill to provide a revenue enforcement and protection program for the Commonwealth.

06/14/83 S Amended by striking out all after the enacting clause and inserting in place thereof the text of S2076, as amended.

06/14/83 S Ordered to a third reading — YEAS 20, NAYS 7.

06/14/83 S Read third, Bills in the Third Reading discharged, and passed to be engrossed.

06/21/83 H House NON-concurred in the Senate amendment.

06/21/83 H Committee of Conference appointed — HJ 1150.

06/23/83 S Senate insisted on its amendment.

06/23/83 S Committee of conference appointed — SJ 780.

06/29/83 H Reported by committee of conference.

06/29/83 H For report, see H6545.

### V. H 6545 (Conference Committee #1)

Report of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2076, amended) of the House Bill to provide a revenue enforcement and protection program for the Commonwealth.

06/29/83 H Committee of conference report NOT accepted YEAS 69, NAYS 85. See Yea and Nay in Supplement, No. 337.

06/30/83 H New committee of conference appointed — HJ 1231.

06/30/83 S New committee of conference appointed — SJ 838.

06/30/83 H Reported by committee of conference.

06/30/83 H For report, see H 6552.

### VI. H 6552 (Conference Committee #2)

Report of the new committee of Conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2076, amended) of the House Bill to provide a revenue enforcement and protection program for the Commonwealth.

06/30/83 H Committee of conference report accepted YEAS 84, NAYS 66. See Yea and Nay in Supplement, No. 342.

06/30/83 S Committee of conference report accepted YEAS 22, NAYS 12.

07/01/83 H Enacted — YEAS 84, NAYS 64. See Yea and Nay in Supplement, No. 345.

07/01/83 Enacted and laid before the Governor — SJ 848.

07/01/83 G Signed by the Governor, *Chapter 233 Acts*.

### VII. Gasoline Excise Tax

#### A. H 5902

Bill relative to the gasoline excise tax.

03/10/83 H Bill reported favorably by committee on TAXATION and referred to the committee on HOUSE WAYS AND MEANS — HJ 125.

03/14/83 H Committee recommended ought to pass with an amendment.

03/15/83 H Ordered to a third reading — YEAS 85, NAYS 62. See Yea and Nay in Supplement, No. 49.

03/16/83 H Read third.

03/16/83 H Bills in the Third Reading amendment adopted — YEAS 90, NAYS 51. See Yea and Nay in Supplement, No. 52.

03/16/83 H Passed to be engrossed — YEAS 86, NAYS 59. See Yea and Nay in Supplement, No. 55.

03/23/83 S Read; and referred to the committee on SENATE WAYS AND MEANS.

03/23/83 S Committee recommended ought to pass with an amendment, inserting in place thereof the text of S 1884.

03/23/83 S Amended by striking out all after the enacting clause and inserting in place thereof the text of S 1884 — YEAS 19, NAYS 18.

#### B. S 1884

Text of the amendment, recommended by the Senate committee on Ways and the House Bill relative to the gasoline excise tax.

03/23/83 S Ordered to a third reading — YEAS 19, NAYS 18.

03/23/83 S Read third.

03/23/83 S Passed to be engrossed.

03/24/83 H Amendment referred to the committee on HOUSE WAYS AND MEANS — HJ 215.

03/28/83 H Committee recommended NON-concurrence.

03/28/83 H House NON-concurred in the Senate amendment YEAS 0, NAYS 149. See Yea and Nay in Supplement, No. 63 — HJ 225.

03/28/83 S Senate insisted on its amendment — YEAS 18, NAYS 17.

03/28/83 S Committee of Conference appointed — SJ 173-175.

03/28/83 H Committee of Conference appointed — HJ 225.

03/29/83 S Reported by committee of conference.

03/29/83 S For report, see S1889.

#### C. S 1889

Report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text of Senate, No. 1884) of the House Bill relative to the gasoline excise tax.

03/29/83 S Committee of Conference report accepted — YEAS 19, NAYS 13.

03/29/83 H Committee of Conference report accepted — YEAS 85, NAYS 57. See Yea and Nay in Supplement, No. 68 — HJ 252.

03/29/83 H Enacted — YEAS 82, NAYS 57. See Yea and Nay in Supplement, No. 69.

03/29/83 S Enacted and laid before the Governor — SJ 192.

03/30/83 G Signed by the Governor, *Chapter 21 Acts*.



## Section 1

—Prior law required insurance companies to be assessed for the costs of the Motor Vehicle Insurance Merit Rating Board based on the actual costs thereof. Such assessment was levied and paid in the latter portion of the FY.

- Amendment allows for such assessments to be based on estimated costs, and paid in the early part of the FY, with adjustments based on actual costs to be made later. Amendment also adds the cost of fringe benefits to the total amounts of assessed costs. Amendment thus provides a one-time beneficial change in the state's cash flow.
- See c. 6 s. 183
- Revenue Impact: Governor estimates that Sections 1, 5, 6, 7, 65, 69, 70, 72, 88, and 89 will improve FY 1984 cash flow by \$5.1 million.

## Section 2

—No prior law.

- Amendment assesses cost of Rate Setting Commission upon most acute care hospitals (not governmental hospitals) at rate of .075% of gross patient service revenues. Assessment is based on estimated costs, with adjustments based on actual costs to be made later. Law specifies that such assessments include the cost of fringe benefits.
- See c. 6A s. 65
- Revenue Impact: Senate Ways and Means estimates a gain of \$1.5 million for FY 1984.

## Section 3

—Current law allows certain tax benefits to corporations located in areas of substantial poverty and hiring people from such areas (UJIB). An eligible company gets a tax credit equal to the difference between the local property tax on its facility and the property tax based on a state-wide average tax rate. The second tax incentive is an additional deduction in determining taxable income equal to 25% of the wages paid to employees who live in a poverty area.

To qualify for these benefits a corporation must: (1) locate (or, in certain circumstances, expand) a facility in a municipality; (2) hire at least 20% of its employees (but not less than 5 jobs) from that poverty area; (3) provide an approved training program; (4) expand employment in the area; and (5) be engaged in certain types of broadly defined businesses.

In 1982, the state limited these benefits to facilities "for which on-site construction commenced, or binding contracts for the construction thereof were entered into, or the land or a leasehold interest therein was acquired, prior to January 30, 1983."

- Amendment adds the further limitation that "the on-site construction of such facility has been completed and such facility has become operational prior to June 30, 1985."
- See c. 23B s. 13 (5), as amended by St. 1983 c. 658 s. 1
- Revenue Impact: Senate Ways & Means estimates that ss. 3 and 4 would cost the state \$1 million in FY 1984.

## Section 4

—Current law limits the UJIB tax benefits to 10 years and a recent ruling by the Attorney General now requires annual recertification of qualification. That opinion also requires a strict definition of a poverty area.

- Amendment would specify that once an area qualifies as an "eligible section of substantial poverty" it need not again so qualify for the purpose of the annual recertification of an otherwise eligible corporation.
- See c. 23B s. 13A — (new)
- Revenue Impact: See section 3 above.

## Section 5

—Allows for advanced assessments of DPU administrative costs (including fringe benefits) on utility companies.

- See c. 25 s. 17A
- Revenue Impact: see section 1.

## Section 6

—Allows for advanced assessment of the Division of Insurance Rating Bureau (including fringe benefits) on insurance companies.

- See c. 26 s. 8E
- Revenue Impact: see section 1.

## Section 7

—Allows for advanced assessments of the Attorney General's costs related to rate setting (including fringe benefits) on insurance companies.

- See c. 26 s. 8F
- Revenue Impact: see Section 1.

## Section 8

—Allows copies of voter registration forms to be forwarded to the DOR and the RMV.

- See c. 51 s. 36
- Revenue Impact: none

## Section 9

—Requires local officials to make copies of voter registration forms available to the DOR and the RMV.

- See c. 51 s. 36
- Revenue Impact: none

## Section 10

—Allows DOR to obtain copies of voter registration forms from local officials (at state expense) and requires that any information obtained therefrom be included in any tax investigation. Also requires DOR to send copies of such list to the RMV.

- See c. 58 s. 7
- Revenue Impact: none

## Section 11

—Prior law ties Massachusetts income tax law to the Federal law as of November 6, 1978.

- Amendment updates reference to February 1, 1983, thereby picking up all Federal law changes now in force.
- See c. 62 s. 1 (c)
- Effective date: tax years beginning on or after January 1, 1983.
- Revenue Impact: Governor claims no revenue impact as a whole.
- Comments — This section, along with section 33, will cause the following

changes in our income tax law for individuals and non-incorporated businesses (there are other, less important changes which are not listed here).

- Increased amount of standard mileage rate for deductions
- Liberalization of installment sales rules
- Liberalization of entertainment expense deduction re: sport clubs.
- Increase of and longer period for deferral or exclusion of capital gain on sale of a home
- Benefits for use of Incentive Stock Options and Employee Stock Option Plans
- Accelerated depreciation (ACRS)
- Write off of certain business start-up costs over 5 years
- Simplify certain accounting rule re LIFO method
- Limit on imputed interest for sales between related parties
- Stricter rules on certain commodity transactions
- Liberalized treatment of certain foreign income
- Limits on certain capital gains transactions re at-risk rules
- Stricter rules on tax-deferred annuities and universal life policies
- Lower threshold on how much Unemployment Compensation is taxed (prior law taxed that amount of UC which brought the taxpayer over \$20,000 of total income if single or \$25,000 if married; new law lowers threshold to \$12,000 and \$18,000)
- Limits on medical deductions (prior law allowed deductions for medical expenses which exceeded 3% of adjusted gross income; new law raises to excess over 5% of AGI)
- Tighter reporting on tax-exempt government bonds
- Tighter tip reporting
- Tighter reporting of broker transactions, payments to independent contractors, and direct sales

## Section 12

—Amendment will prevent Massachusetts from picking up either Federal tax treatment of interest earned from all-savers accounts (i.e., exclusion from gross income) or the new Federal net interest exclusion scheduled to take effect next year.

- See c. 62 s. 2 (a) (1) (G) — (new)
- Effective date: tax years beginning on or after January 1, 1983
- Revenue Impact: Protection of current revenues (small amounts).
- Comments — Federal tax benefits for all-savers certificates are ended for certificates issued after January 1, 1983. Since the program did not stimulate the degree of savings desired, there has never been any real attempt to extend the benefits for a longer period of time.

Federal law for tax years 1982 and 1983 grants no interest exclusion. Beginning in 1984, the federal law will allow an interest exclusion of up to \$450 for single and \$900 for married taxpayers. Massachusetts currently allows an interest exclusion of \$100 for single and \$200 for married taxpayers.



**Section 13**

—Amendment will prevent Massachusetts from picking up the favorable Federal tax treatment of reinvested dividends from public utilities (i.e., tax deferral and lower rates) in effect until 1985.

- See c. 62 s. 2 (a) (1) (H) — (new)
- Effective date: tax years beginning on or after January 1, 1983.
- Revenue Impact: protection of current revenues (minimal).

**Section 14**

—Prior law granted a 60% deduction from net capital gain (based on Federal law) prior to application of our 10.75% rate. Thus, the effective tax rate became 4.3%.

- Amendment limits this deduction to 50%. Thus, the effective tax rate is raised to 5.375%, which equals the rate for earned income.
- See c. 62 s. 2 (c) (3).
- Effective date: tax years beginning on or after January 1, 1983.
- Revenue Impact: Senate W&M estimates a revenue increase of \$10.7 million per year.

**Section 15**

—Amendment will prevent Massachusetts from picking up the Federal deduction for two-earner married couples.

- See c. 62 s. 2 (d) (12) — (new).
- Effective date: tax years beginning on or after January 1, 1983.
- Revenue Impact: protection of current revenues (M.C. estimates approximately \$10 million involved).
- Comments — Under prior federal law, a married couple with two wage earners paid a much higher tax than they would have paid if single. This led to a variety of tax avoidance schemes (e.g., year end trips to the Caribbean for a quick divorce, followed three days later by a quick Maryland marriage) and a disincentive for marriage. The reason for this situation was the federal system of graduated tax brackets. The following example may illustrate the problem:

ASSUME: A couple is married with a taxable income of \$35,000; of this \$20,000 is attributable to Husband (H) and \$15,000 to Wife (W). Without the current federal two-earner deduction, their federal tax situation would be:

$$\begin{array}{r} H = \$20,000 \\ W = \$15,000 \\ \$35,000 \text{ on which they would be} \\ \text{taxed in 1982} = \underline{\underline{\$7249}} \end{array}$$

BUT if that same couple were single,

$$\begin{array}{r} H = \$20,000 \text{ with a tax of } \$3744 \\ W = \$15,000 \text{ with a tax of } \$2324 \\ \underline{\underline{\$6068}} \end{array}$$

THUS this couple would have paid \$1181 MORE Federal taxes just because they were married. The Federal deduction for two-earner married couples significantly reduces this discrepancy.

• **MASSACHUSETTS DOES NOT HAVE THIS DISCREPANCY.**

ASSUME: All of the above. If the couple is married, their Massachusetts tax situation would be:

$$\begin{array}{r} H = \$20,000 \\ W = \$15,000 \\ \$35,000 \times 5.375\% = \underline{\underline{\$1881.25}} \end{array}$$

AND if they were single,

$$\begin{array}{r} H = \$20,000 \times 5.375\% = \$1075.00 \\ W = \$15,000 \times 5.375\% = \$806.25 \\ \underline{\underline{\$1881.25}} \end{array}$$

THUS their tax is the same. There is no need for the two-earner deduction.

**Section 16**

—Prior law allowed a limited travel deduction to state legislators. This deduction was tied to federal law, which was not clearly spelled out in the federal code. The federal tax changes in 1981 set out such specifics in the code, but Massachusetts could not adopt them due to our 1978 code reference.

- Amendment will prevent Massachusetts from picking up the 1981 federal changes. In fact, it will deny the travel deduction to state legislators altogether.
- See c. 62 s. 2 (d) (13) — (new).
- Effective date: tax years beginning on or after January 1, 1983.

**Section 17**

—Prior law allowed an unlimited deduction for contributions made to Social Security or Railroad Retirement.

- Amendment will limit such deduction plus those addressed in section 18 of this act to \$2000 per year per taxpayer. Section 18 is closely tied to this section.
- See c. 62 s. 3 (B) (a) (3).
- Effective date: tax years beginning on or after January 1, 1983.
- Revenue Impact: Senate W&M estimates that sections 17 and 18 will raise \$4.6 million.

**Section 18**

—Prior law allows an unlimited deduction for contributions made to the retirement plans of the federal, state or local governments.

- Amendment will limit such deduction plus those addressed in section 17 of this act to \$2000 per year per taxpayer. Section 17 is closely tied to this section.
- See c. 62 s. 3 (B) (a) (4).
- Effective date: tax years beginning on or after January 1, 1983.
- Revenue Impact: Senate W&M estimates that sections 17 and 18 will raise \$4.6 million.

**Section 19**

—Prior law tied Massachusetts to the Federal treatment of child care expenses. However, where the federal government allowed a tax credit equal to 20% of expenses not exceeding \$2000 for one child (\$4000 for more than one) or a total of \$400/\$800,

Massachusetts allowed a deduction of the expenses up to the \$2000/\$4000 amount.

- Amendment updates Massachusetts' treatment of child care expenses to reflect the 1981 increases in federal law from the \$2000/\$4000 limit to \$2400/\$4800.
- See c. 62 s. 3 (B) (a) (7).
- Effective date: tax years beginning on or after January 1, 1983.

**Section 20**

—Prior law granted personal exemptions to married couples equal to: (a) if both earned more than \$2200, then \$2200 each (or \$4400), or (b) if one earned less than \$2200, then \$2200 for the higher paid spouse plus \$800 for the lower paid (or \$3000), plus the amount of income of the lower paid spouse, provided, however, that the total exemption could not exceed \$4800.

- Amendment changes the law regarding the above so that the \$800 will be \$1000, the \$3000 will be \$3200, and the \$4800 will be \$4400.
- See c. 62 s. 3 (B) (b) (2) (A).
- Effective date: tax years beginning on or after January 1, 1983.

**Section 21**

—Prior law granted an exemption from income taxes for taxpayers earning below \$3000 if single or \$5000 if married. Furthermore, no tax could be imposed which reduced income below said \$3000/\$5000.

- Amendment raises these limits to \$3600/\$6100. See also sections 22 and 23.
- See c. 62 s. 5 (a).
- Effective date: tax years beginning on or after January 1, 1984 and before January 1, 1985.
- Revenue Impact: Governor provides no estimates; Senate W&M estimates \$5 million loss for FY 1985.
- Comments — Recent discussions with the DOR set their estimates at \$1.3 million F84; \$4.6 for F85; \$11.6 for F86; and \$19.3 for F87.

**Section 22**

—Amendment raises the no-tax status limits from \$3600/\$6100 to \$4400/\$7200.

- See c. 62 s. 5 (a).
- Effective date: tax years beginning on or after January 1, 1985 and before January 1, 1986.

**Section 23**

—Amendment raises the no-tax status limits from \$4400/\$7200 to \$5000/\$8300.

- See c. 62 s. 5 (a).
- Effective date: tax years beginning on or after January 1, 1986.

**Section 24**

—Prior law specified non-resident income subject to Massachusetts income tax. Lottery or betting winnings were not so specified and, thus, were not taxed.

- Amendment specifically states that lottery or wagering winnings in Massachusetts by a non-resident are subject to income tax here.
- See c. 62 s. 5A (a).
- Effective date: tax years beginning on or after January 1, 1983.
- Revenue Impact: Governor estimates \$500,000 per year.



**Section 25**

- Prior law granted a refundable tax credit to taxpayers who earned below \$5000 (whether single or married) equal to \$4 for the taxpayer plus \$4 for the taxpayer's spouse plus \$8 for each dependent. It was the only income tax credit which could result in an actual gain to the taxpayer.
- Amendment will repeal this credit.
- See c. 62 s. 6 (b).
- Effective date: tax years beginning on or after January 1, 1984.
- Revenue Impact: Senate W&M estimates a \$2 million increase in revenues.

**Section 26**

- Prior law tied the definition of wages for withholding purposes to the Federal definition. However, in 1982 the federal law began allowing optional withholding for certain pension payments.
- Amendment will require withholding for Massachusetts income taxes whenever a taxpayer chooses to have federal taxes withheld from his pension payments.
- See c. 62B s. 1.
- Effective date: tax years beginning on or after January 1, 1983.

**Section 27**

- Prior law did not require state withholding on any Massachusetts gambling winnings.
- Amendment will require withholding equal to 5% for all gambling winnings in Massachusetts, except winnings from horse and dog racing, which are subject to federal withholding. Federal law requires withholding on most winnings of \$5000 or more (including lottery and bingo). Provision also requires submission of certain relevant information by the recipient.
- See c. 62B s. 2.
- Revenue Impact: Governor estimates a \$2 million per year increase in revenues.

**Section 28**

- Prior law did not specify powers of DOR if it found a taxpayer to be misrepresenting his number of dependency exemptions for purposes of withholding.
- Amendment allows DOR to set the number of dependency exemptions for a taxpayer, if it finds that he has "no reasonable basis" for such number.
- See c. 62B s. 4 (f) — (new).

**Section 29**

- Prior law set forth the following penalties and fines for failure to comply with withholding requirements:
  - (a) Employer who "willfully" fails to provide an employee W-2 — \$50 penalty per offense plus fine up to \$1000 and/or imprisoned up to 1 year;
  - (b) Employee who "willfully" lies about the number of dependents so as to reduce withholding — \$50 penalty plus fine up to \$500 and/or imprisoned up to 1 year;
  - (c) Employer who "willfully" fails to withhold or pay over withholdings — fine up to \$1000 and/or imprisoned up to 1 year.
- Amendment repeals prior law. See section 30 [which replaces (b) above] and section 41 (which replaces (a) and (c) above — see new c. 62C s. 73 (d) and (b)].
- See c. 62B s. 11.

**Section 30**

- See section 29, above, for prior law as set forth in c. 62B s. 11 (b).
- Amendment provides new penalties for employees who have "no reasonable basis" to change their number of withholding exemptions in order to lower the amount withheld — \$500. Commissioner may waive, in whole or part, this penalty, if taxes are equal to or less than the credits against such taxes. See also c. 62C s. 73 (e), added by section 41 of this act.
- See c. 62B s. 11A — (new).
- Revenue Impact: None, new penalty similar to prior law, but see section 33.

**Section 31**

- Prior law did not require withholding except for wages paid to employees.
- Amendment will require the state, its agencies, and local communities to withhold 3.5% from all personal service contracts except those paid from the 07 account (re Laboratory and Medical Supplies and Expenses and General Care).
- See c. 62B s. 12A — (new).
- Effective date: tax years beginning on or after January 1, 1984.
- Revenue Impact: none provided by sponsor — Senate W&M, see section 33.

**Section 32**

- Prior law provided an interest penalty for underpayment of estimated tax at a rate tied to the prime rate, as determined by the Internal Revenue Service (for the period January-June, 1983, the rate was 16%; for the period July-December, 1983, the rate would be 11%).
- Amendment sets the rate at 18%.
- See c. 62B s. 18 (a).
- Revenue Impact: none provided by sponsor, Senate W&M (will be minimal). See section 33.

**Section 33**

- Prior law tied the state's administrative tax provisions to the Federal code as of January 1, 1971.
- Amendment updates reference to July 1, 1983, thereby picking up all Federal law changes now in force.
- See c. 62C s. 1.
- Effective date: tax years beginning on or after January 1, 1983.
- Revenue Impact: Governor estimates that this provision together with other administrative and collections changes contained in this act will increase state revenues by \$16 million per year. This includes sections 26, 28-41, 46, 52, 54, 54A, 56, 57, 82, 94, and 98-100 of this act.

**Section 34**

- Prior law provided an interest penalty for failure to pay taxes by the due date at a rate tied to the prime rate, as determined by the IRS (for the period January-June, 1983, the rate was 16%; for the period July-December, 1983, the rate would be 11%).
- Amendment sets the rate at 18%.
- See c. 62C s. 32.

**Section 35**

- Prior law was unclear what the DOR could do to enforce tax laws in relation to licenses issued by the government.

- Amendment will more clearly define the DOR's powers in this area. Provisions of the law are as follows:
  - (a) requires all state and local agencies issuing or renewing a professional, trade or business license to send a list of all such licenses to the DOR by February 1 each year;
  - (b) requires all state and local agencies to send a list of all persons furnishing them with goods, services or real estate space to the DOR by August 1 each year; draft seems to allow DOR to exempt municipalities below a certain population (as set by the DOR) from this requirement;
  - (c) specifies content of the lists;
  - (d) requires DOR to notify, in writing, the relevant state or local agency and the licensee if the DOR finds that said licensee is not in compliance with any tax laws (unless the licensee has a good-faith appeal of the matter pending);
  - (e) if the DOR requests, in writing, that a license be revoked or suspended and if the license is issued by a state agency, then said agency must notify the licensee, hold a hearing and, if it finds that such licensee is not in compliance with the tax laws and does not have a good-faith appeal pending, suspend or revoke such license;
  - (f) the DOR's written contentions re: the licensee's tax situation are prima facie evidence thereof;
  - (g) any suspended or revoked license shall not be reissued or renewed until the licensee complies with all tax laws and the relevant agency is notified of such compliance by the DOR; and
  - (h) any person aggrieved by a decision made pursuant to this law may appeal to the Superior Court.
- See c. 62C s. 47A — (new).
- Revenue Impact: Governor estimates that sections 35 and 36 will increase revenues by \$6 million; but see section 33.

**Section 36**

- Prior law was unclear what the DOR could do to enforce tax laws in relation to licenses issued by government.
- Amendment will more clearly define DOR's powers in this area. Provisions of this law are as follows:
  - (a) Requires any person applying for an issuance or renewal of a professional, trade or business license from any state or local agency to certify on such application, under penalties of perjury, that he has complied with all tax laws;
  - (b) Requires all parties to a contract to provide goods, services or real estate space to any state or local agency to certify in writing, under penalties of perjury, that he has complied with all tax laws; and
  - (c) Requires any agency notified by the DOR pursuant to c. 62C s. 47 [sic — should be 47A] of an applicant's non-compliance with tax laws (excluding good-faith appeals regarding the issue) to refuse to reissue, renew or extend the license or contract until the licensing agency receives a clearance certificate issued by the DOR.
- See c. 62C s. 49A — (new).



- Revenue Impact: Governor estimates that sections 35 and 36 will increase revenues by \$6 million; but see section 33.
- Comments — This section is closely associated with section 35.

### Section 37

- Prior law set a 10-year statute of limitations only for collection of estate taxes.
- Amendment sets a 10-year statute of limitations for all taxes. The period begins to run from the date of assessment.
- See c. 62C s. 65.
- Effective date: January 1, 1985.
- Revenue Impact: none, but see section 33.

### Section 38

- Prior law did not address this area.
- Amendment allows DOR to contract with other states to encourage vendors in such states to collect and pay over Massachusetts sales and use taxes. DOR is empowered to waive any or all outstanding tax liabilities of such vendors if they agree to comply in the future. No contracts may be made unless the other state offers "equivalent waivers" to Massachusetts vendors doing business in such state.
- See c. 62C s. 67B — (new).
- Revenue Impact: Governor estimates increase in revenues by \$1 million per year; but see section 33.

### Section 39

- Amendment allows DOR to revise the procedure for issuance of sales or use tax exempt certificates, if it is determined that "significant tax evasion is attributable to the improper use" thereof.
- See c. 62C s. 67C — (new).
- Revenue Impact: minimal, but see section 33.

### Section 40

- Prior law defined "person" for purposes of punishing those taxpayers filing fraudulent returns (c. 62C s. 73).
- Amendment clarifies that corporate officers may be subject to this section. Note, that c. 62C s. 73 is amended by section 41 of this act.
- See c. 62C s. 72.

### Section 41

- Prior law set forth penalties (i.e., fine of between \$100 and \$10,000 and/or up to 1 year in prison) for *willful* failure to file, tax evasion, aid in such activity, and misappropriation of tax payments.
- Amendment imposes stiffer fines and addresses a broader range of activity. The law now provides:
  - (a) Willful tax evasion — in addition to other penalties, felony and, upon conviction, fined up to \$100,000 (\$500,000 for corporations) and/or imprisoned up to 5 years, plus costs;
  - (b) Willful non-compliance re trustee taxes — in addition to other penalties, felony and, upon conviction, fined up to \$10,000 and/or imprisoned up to 5 years, plus costs;

- (c) Willful non-compliance re estimated taxes — in addition to other penalties, misdemeanor and fined up to \$25,000 (\$100,000 for corporations) and/or imprisoned up to one year, plus costs;
- (d) Willful failure to properly provide for W-2 — in lieu of all other penalties (except c. 62B s. 11A, as added by section 30 of this act) misdemeanor and fined up to \$1000 and/or imprisoned up to one year for each offense;
- (e) Willful false information re W-2 — in lieu of all other penalties (except c. 62B s. 11A, as added by section 30 of this act), misdemeanor and fined up to \$1000 and/or imprisoned up to one year for each offense;
- (f) Willful perjury re: tax forms, willful assistance in preparation of fraudulent tax items, willful fraudulent execution of a tax form, willful concealing of goods or property subject to tax or levy with intent to evade such tax or levy, or willful misappropriation of another's money intended for tax payment — felony and, upon conviction, fined up to \$100,000 (\$500,000 for corporations) and/or imprisoned up to 3 years, plus costs;
- (g) Willful filing of fraudulent tax material — fined up to \$10,000 (\$50,000 for corporations) and/or imprisoned up to one year;
- (h) Willful corruption of, force upon, or threat of force to DOR employee — upon conviction, fined up to \$5000 and/or imprisoned up to 3 years (if only a threat, then fined up to \$3000 and/or imprisoned up to one year); and
- (i) Willful evasion of sales or use tax by misuse of tax exempt certificate — fined up to \$10,000 (\$50,000 for corporations) and/or imprisoned up to one year.
- See c. 62C s. 73.
- Revenue Impact: Governor estimates \$2 million increase for F84 (much more for future years), but see section 33.

### Section 42

- Prior law taxed savings banks in several ways. One aspect of this tax system was a tax based on bank deposits, which included a deduction for real estate mortgages granted within 50 miles of the bank's home office. In 1978, the US Supreme Court ruled that the 50-mile limitation was unconstitutional as applied to federally chartered savings and loans due to federal pre-emption in the area. Furthermore, the court ruled that the deduction could not be separated from the tax and, thus, the entire portion of the tax based on deposits was thrown out. The state has done nothing to react to this ruling (two reasons are (1) the deposits tax on federal S & L's produced little revenue, and (2) later court cases confined the ruling to federally chartered banks and, until recently, that included only S & L's in Massachusetts). In the last year, Massachusetts savings banks have begun to adopt federal charters.
- Amendment will repeal the 50-mile limit for *all* savings banks, thereby circumventing the court opinion. Amendment will also clarify that the tax applies to federally chartered savings banks.

- See c. 63 s. 11.
- Effective date: tax years beginning on or after November 1, 1982.
- Revenue Impact: Governor estimates no revenue impact, only a protection of current revenues.

### Section 43

- Prior law allowed the use of credits against corporate taxes (i.e., investment tax credit, UJIB tax credit for property tax differential) to reduce the actual tax due to the \$228 minimum tax. No carry over of any unused portion of the UJIB tax credit was allowed; however, any unused portion of the ITC could be carried forward for 3 years.
- Amendment limits the use of such tax credits so that the actual tax due is not less than 50% of the tax before applying such credits. However, any unused portion of such credits may be carried forward for an unlimited time. The \$228 minimum tax will continue to apply.
- See c. 63 s. 32C — (new).
- Effective date: tax years beginning on or after January 1, 1983.
- Revenue Impact: Senate W&M estimates a \$2 million per year revenue increase.

### Section 44

- Prior law allowed DOR to use an alternate apportionment method for any individual corporation, if the DOR determined that the statutory method did not properly reflect Massachusetts income [c. 63 ss. 33, 38 (h)]. Individual corporations were also allowed to request such action (c. 63 s. 42).
- Amendment will not affect DOR's authority as stated above; it will, however, allow the DOR to create new apportionment formulae for "any type of industry group," if the DOR determines that the statutory methods do not accurately reflect Massachusetts income.
- See c. 63 s. 38 (j) — (new).
- Effective date: tax years ending on or after December 31, 1983.
- Revenue Impact: Governor estimates a \$2 million revenue gain per year for this section plus section 45.

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**The effective date for all sections is July 1, 1983, unless otherwise stated.**

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**Section 45**

—Prior law apportioned multistate utility company income based on the proportion located in Massachusetts.

- Amendment will subject such utility companies to the typical 3-factor formula. However, unlike the typical Massachusetts corporation, the utilities will not double-weight the sales factor.
- See c. 63 s. 52A.
- Effective date: tax years ending on or after December 31, 1983.
- Revenue Impact: see section 44.

**Section 46**

—Prior law provided an interest penalty for underpayment of corporate estimated tax at a rate tied to the prime rate, as determined by the IRS.

- Amendment sets the rate at 18%.
- See c. 63B s. 6 (a).
- Revenue Impact: minimal, see section 33.

**Section 47**

—Prior law set the cigarette excise tax at 21 cents per pack (10.5 mills per cigarette)

- Amendment raises tax to 26 cents per pack (13 mills per cigarette).
- See c. 64C s. 6.
- Effective date: July 11, 1983.
- Revenue Impact: Governor estimates revenue increase of \$25.5 million per year; this includes increased revenues pursuant to sections 48-51, and 95 of this act (re: penalties for illegal cigarettes).
- Comments — See also section 95 for cigarette inventory tax as of July 11, 1983.

**Section 48**

—Prior law granted power to sell seized illegal cigarettes and related property to the Commissioner of Public Safety.

- Amendment transfers this power to the Commissioner of Revenue.
- See c. 64C s. 8.
- Revenue Impact: none, but see section 47.

**Section 49**

—Prior law set out punishment for illegal sale or possession with intent to sell unstamped cigarettes (up to \$1000 and/or up to 1 year in prison).

- Amendment increases the penalty if the violation involves 12,000 cigarettes (1 case) or more — up to \$5000 and/or up to 5 years in state prison. The penalty for violation involving a fewer number of cigarettes remains unchanged, as do the evidence and burden rules.
- See c. 64C s. 34.
- Revenue Impact: minimal, but see section 47.

**Section 50**

—Prior law set out punishment for persons who “knowingly” possess, deliver or transport unstamped cigarettes within Massachusetts (up to \$1000 and/or 1 year

imprisonment) and subjected related property to seizure and sale.

- Amendment increases the penalty if the violation involves 12,000 cigarettes (1 case) or more — up to \$5000 and/or up to 5 years in state prison. The penalty for violation involving a fewer number of cigarettes remains unchanged, as do the seizure and sale rules.
- See c. 64C s. 35.
- Revenue Impact: minimal, but see section 47.

**Section 51**

—Prior law re powers and methods of seizure and sale of illegal cigarettes was contained in c. 64C s. 8 only.

- Amendment retains said c. 64C s. 8 and adds a new section which grants police powers in this area to the Commissioner of Revenue and requires him to sell seized materials “within a reasonable time” after seizure and after public notice. Receipts from such sale go into the General Fund.
- See c. 64C s. 38A — (new).
- Revenue Impact: minimal, but see section 47.

**Section 52**

—Prior law allowed the ever continuing use of a certificate of exemption from sales tax, without a need for periodic renewal.

- Amendment limits effective period of such certificates to 5 years, and requires DOR to notify certificate holder of the expiration date 90 days prior to such date.
- See c. 64H s. 6.
- Revenue Impact: none, but see section 33.

**Section 53**

—Prior law was unclear on whether certain gifts are subject to the sales tax (based on fair cash value of the item).

- Amendment clarifies that sales at no cost of certain scientific equipment to any nonprofit Massachusetts educational institution, the Massachusetts Technology Park Corporation, or the Bay State Resources Corporation are exempt from the sales tax.
- See c. 64H s. 6 (jj) — (new).
- Revenue Impact: Senate W&M estimates revenue loss of \$3.5 million per year.

**Section 54**

—Prior law set penalty for misuse of sales tax exemption certificate at \$500.

- Amendment repeals this law (see section 41 of this act, which adds c. 62C s. 73 (i), for new law on this issue — \$10,000 and/or 1 year).
- See c. 64H s. 8 (e) for repealed law.

**Section 54A**

—Prior law sets penalty for misuse of sales tax exemption certificate at \$500.

- Amendment repeals this law (see section 41 of this act, which adds c. 62C s. 73 (i),

for new law on this issue — \$10,000 and/or 1 year).

- See c. 64H s. 8 (i) for repealed law.

**Section 55**

—Prior law did not address this issue.

- Amendment requires every local harbor-master to file an annual report with the DOR listing all non-Massachusetts boats which anchor in the harbor for a period of 2 weeks or more. The report shall also be made available to the municipalities (for boat excise tax collection purposes).
- See c. 64H s. 25B — (new).
- Revenue Impact: Governor estimates \$500,000 per year increased sales tax revenue; no estimates available for increased boat excise tax collections.

**Section 56**

—Prior law set penalty for misuse of use tax exemption certificate at \$500.

- Amendment repeals this law (see section 41 of this act, which adds c. 62C s. 73 (i), for new law on this issue — \$10,000 and/or 1 year).
- See c. 64I s. 8 (e) for repealed law.

**Section 57**

—Prior law set penalty for misuse of use tax exemption certificate at \$500.

- Amendment repeals this law (see section 41 of this act, which adds to 62C s. 73 (i), for new law on this issue — \$10,000 and/or 1 year).
- See c. 64I s. 8 (j) for repealed law.

**Section 58**

—Prior estate tax law did not tax generation-skipping transfers.

- Amendment seeks to tax generation-skipping transfers in which either “the original transferor is a resident of the commonwealth at the date of original transfer,” or “the property transfer includes real or personal property in the commonwealth.” The amount of tax equals “the amount allowable as a credit for state death taxes” under the federal code. Thus, this would be a partial sponge tax — the taxpayer’s cumulative state and federal estate tax does not increase, rather, the state gets a larger piece of the pie.
- See c. 65C s. 4A — (new).
- Revenue Impact: Governor estimates a revenue increase of \$50,000 per year.

**Section 59**

—Prior law had all state monies generated by the annual motor vehicle inspections deposited into a separate account — the Motor Vehicle Inspection Fund. As of June, 1983, there was \$5.4 million in that fund. The monies were used to pay for the costs associated with the program.



**Section 60**

—Prior law set out fines for various speeding offenses.

- Amendment doubles all such fines, as follows:

	Prior Fine	New Fine
(a) 1st offense	up to \$25	up to \$50
(b) 2nd offense (within 1 year)	\$25-50	\$50-100
(c) 3rd offense (within 1 year)	\$50-100	\$100-200
(d) 1st offense in overweight truck	up to \$50	up to \$100
(e) 2nd offense in overweight truck (within 1 year)	\$50-75	\$100-150
(f) 3rd offense in overweight truck (within 1 year)	\$75-150	\$150-300

- See c. 90 s. 20 paragraph 1.
- Effective date: September 1, 1983.
- Revenue Impact: Senate W&M estimates that sections 60 and 61 will increase revenues by \$12.5 million per year.
- Comments — See also section 86 of this act.

**Section 61**

—Prior law set out fines for various speeding violations.

- Amendment repeals some of the fines which are set out above in section 60 of this act.
- See c. 90 s. 20 last paragraph — for repealed law.
- Effective date: September 1, 1983.
- Revenue Impact: see section 60.

**Section 62**

—Prior law required RMV to deny license and registration renewal to any person failing to pay parking fines after said RMV is notified of such situation by the city or town. Renewal may be allowed only after the city or town notifies said RMV of payment. The RMV was also required to add a \$5 charge for their costs associated with this procedure.

- Amendment adds requirement that the person be in arrears for at least 2 parking tickets and raises RMV charge to \$10.
- See c. 90 s. 20A.
- Effective date: September 1, 1983.
- Revenue Impact: Senate W&M estimates that section 62, 63 and 187 will increase revenues by \$2 million per year.
- Comments — See also section 92 of this act.

**Section 63**

—Prior law set out procedures to deal with persons who fail to pay parking ticket, see section 62 above.

- Amendment makes changes as set out in section 62 above.
- See c. 90 s. 20A 1/2.
- Effective date: September 1, 1983.
- Revenue Impact: see section 62 above.

**Section 64**

—Prior law allowed bottlers and distributors to keep unrefunded bottle deposits without accounting for same.

- Amendment requires that all bottlers and

distributors keep all bottle deposit receipts in a separate fund make monthly reports on such receipts and refunds to the ABCC.

- See c. 94 s. 323 (g) — (new).
- Revenue Impact: none.

**Section 65**

—Requires that assessments made by the Racing Commission to fund its operation be made based on costs including the costs of fringe benefits.

- See c. 128A s. 5B (b).
- Revenue Impact: minimal, but see section 1.

**Section 66**

—Prior law set out a formula by which to determine what schedule would be used to determine Unemployment Insurance Tax Rates for employers.

- Amendment will statutorily set the schedule for calendar year 1984 at schedule D.
- See c. 151A s. 14 (i) (2).
- Effective date: calendar year beginning January 1, 1984.
- Revenue Impact: Governor estimates that schedule D will generate \$530 million in CY 1984 — but all this goes into the Unemployment Insurance Trust Fund and is not available for any use other than paying unemployment benefits.

**Section 67**

—Prior law did not impose an additional excise on wages.

- Amendment will impose an excise on all wages paid by private, profit-making employers at a rate of .2%. "Wages" are defined as the first \$7000 of remuneration (this is the same definition used to determine unemployment taxes). Payment will be made to DES in a manner consistent with U.I. tax collection. All receipts shall be deposited into a separate account — the economic development fund (see section 68 of this act, which adds c. 151A s. 14E).
- See c. 151A s. 14D — (new).
- Effective date: January 1, 1984 (but see section 67A of this act which repeals this section as of January 1, 1985 — thus making this excise effective only for CY 1984).
- Revenue Impact: Governor estimates this new excise will raise \$30.4 million in CY 1984.

**Section 67A**

—Amendment will repeal the provisions of c. 151A s. 14D, as added by section 67 of this act.

- See St. 1983 c. 233 s. 67A (not in the General Laws) — (new).
- January 1, 1985.
- Revenue Impact: see section 67.

**Section 68**

—Amendment establishes the separate Economic Development Fund for the .2% payroll excise levied pursuant to c. 151A s. 14D, as added by section 67 of this act. Monies of said fund may only be used to "support economic development within the commonwealth, including but not limited to activities and programs concerned with skills training and education consistent with employment need, capital formation, tourist promotion, and industrial promotion and development."

- Amendment also requires annual reports and projections on the U.I. Trust Fund, with quarterly updates, by DES to the House and Senate.
- See c. 151A ss. 14E and 14F — (new).
- Revenue Impact: none.

**Section 69**

—Allows for advanced assessments of Energy Facilities Siting Council costs related to long-range forecasts on electric and gas companies. See discussion at section 1.

- See c. 164 s. 69H.
- Revenue Impact: see section 1.

**Section 70**

—Prior law allowed the Division of Banks to assess annual charges to banks for the costs of examinations and audits.

- Amendment specifies that such assessments shall include the costs of fringe benefits and shall be paid within 30 days. Amendment also allows an assessment for the costs of running the Commissioner of Banks' office (including fringe benefits) and apportions such costs based on the proportion of bank assets. See discussion at section 1.
- See c. 167 s. 2.
- Revenue Impact: minimal, but see section 1.

**Section 71**

—Prior law required Commissioner of Insurance to audit domestic insurance companies every three years.

- Amendment specifies that the charge for such audits (including benefits) shall be determined by the Commissioner annually and shall be paid within 30 days. Amendment also clarifies that, if the Commissioner hires an independent auditor, such charges may also be assessed.
- See c. 175 s. 4.
- Revenue Impact: Senate W&M estimates that this new assessment will generate \$800,000 per year in new revenue.

**Section 72**

—Allows for advanced assessment of the costs related to running the Massachusetts Firefighters Academy (including fringe benefits) on insurance companies. See discussion at section 1.

- See c. 175 s. 195.
- Revenue Impact: see section 1.



**Section 73**

—Clarifies that all intangible personal property, unless specifically treated otherwise, which remains unclaimed for 5 years shall be presumed abandoned. Amendment is only a technical, clarifying change.

- See c. 200A s. 5.
- Effective date: June 30, 1983.
- Revenue Impact: none.

**Section 74**

—Requires courts making a temporary order for alimony to include a provision relating to health insurance.

- See c. 208 s. 17.
- Revenue Impact: Governor estimates that sections 74-81 and 83-85 will free up \$4 million per year in state expenditures.

**Section 75**

—Requires courts making an order for maintenance of a spouse or child support to include a provision relating to health insurance.

- See c. 208 s. 20.
- Revenue Impact: see section 74.

**Section 76**

—Requires courts making an order for child support to determine whether the obligor has a health insurance plan that can cover said child. If such a plan exists, the court shall require the obligor to cover said child.

- See c. 208 s. 28.
- Revenue Impact: see section 74.

**Section 77**

—Requires courts making an order for alimony to determine whether the obligor has a health insurance plan that can cover the spouse. If such a plan exists, the court shall require the obligor to cover said spouse.

- See c. 208 s. 34.
- Revenue Impact: see section 74.

**Section 78**

—Prior law allowed a court to order an assignment of wages to insure payment of alimony or child support. Statute covered reimbursement of employer for costs (up to \$1), protection for employee from employer retaliation, employer liability for payment if she/he fails to comply with the court order, and reciprocity with other states with similar laws.

- Amendment will now require such wage assignment orders at the time of the order for alimony or child support. However, such order shall not take effect unless either the obligor fails to meet 2 successive payments or the court finds that the obligor is likely to default. Amendment provides for notice, hearing and appeal regarding this new procedure. Amendment also covers the items listed above plus it adds a penalty for employers who do illegally retaliate against the employee for the assignment order. Finally, amendment also requires that any existing support order which is brought before a court be modified to conform with the new provisions.
- See c. 208 s. 36.
- Revenue Impact: see section 74.

**Section 79**

—Requires courts making an order for support not related to a divorce proceeding to determine whether the obligor has a health insurance plan that can cover the spouse or child. If such a plan exists, the court shall require the obligor to cover said persons.

- See c. 209 s. 32.
- Revenue Impact: see section 74.

**Section 80**

—Prior law allowed a court to order an assignment of wages to insure payment of a support order. See discussion at section 78 for details.

- Amendment will now require such wage assignment orders at the time of the order for support. See discussion at section 78 for details.
- See c. 209 s. 32E.
- Revenue Impact: see section 74.

**Section 81**

—Requires courts making an order for child support to determine whether the obligor has a health insurance plan that can cover the child. If such a plan exists, the court shall require the obligor to cover such child.

- See c. 209 s. 37.
- Revenue Impact: see section 74.

**Section 82**

—Subjects persons who impersonate an officer of the DOR to a fine up to \$400 or imprisonment up to 1 year.

- See c. 268 s. 33.
- Revenue Impact: none, but see section 33.

**Section 83**

—Requires courts making an order for maintenance of a party, who is not covered by health insurance, to include a provision relating to health insurance.

- See c. 273 s. 4.
- Revenue Impact: see section 74.

**Section 84**

—Requires courts making an order for support of a spouse or child to determine whether the obligor has a health insurance plan that can cover said persons. If such a plan exists, the court shall require the obligor to cover said persons. Amendment also requires pending wage assignments to insure payment of such orders; see discussion at section 78 for details on this aspect.

- See c. 273 s. 5.
- Revenue Impact: see section 74.

**Section 85**

—Parallels section 84 above in regards to Uniform Reciprocal Enforcement of Support Act.

- See c. 273A s. 10.
- Revenue Impact: see section 74.

**Section 86**

—Prior law earmarked all speeding fines for the municipality where the offense occurred.

- Amendment earmarks all increased collections from speeding fines (over FY 1983) due solely to the fine increases set

out in section 60 for the state Highway Fund.

- See c. 280 s. 2.
- Effective date: September 1, 1983.
- Revenue Impact: none, but see section 60.
- Comments — Much of the Highway Fund is allocated for local use; see c. 58 s. 18B and c. 81 s. 31.

**Section 87**

—Amends St. 1929 c. 263 s. 4C, re: parking fines in Boston, to conform with the changes made in section 62, above.

- See St. 1929 c. 263 s. 4C, as amended by St. 1982 c. 190 s. 13B.
- Effective date: September 1, 1983.
- Revenue Impact: see section 62.

**Section 88**

—Allows for advanced assessments of costs related to the Medical Malpractice Insurance Commission (including fringe benefits) on insurance companies. See discussion at section 1.

- See St. 1975 c. 362 s. 12.
- Revenue Impact: see section 1.

**Section 89**

—Allows for advanced assessments of costs related to the Executive Office of Energy Resources and the D.P.U. (including fringe benefits) on utility companies. See discussion at section 1.

- See St. 1980 c. 465 s. 7 (e).
- Revenue Impact: see section 1.

**Section 90**

—Prohibits use of Unemployment Insurance tax funds for DES administration of new wage excise levied pursuant to section 67 of this act.

- Revenue Impact: none.

**Section 91**

—Requires DOR to file quarterly reports with the General Court on revenues generated by sections 1-68 of this act.

- Revenue Impact: none.

**Section 92**

—Requires RMV to submit annual reports to the cities and towns detailing the RMV's actions on the municipality's parking tickets and any changes due to RMV from the city or town relative to same. Such charges shall be assessed to the city or town pursuant to c. 59 s. 20.

- Effective date: September 1, 1983.
- Revenue Impact: none, but see section 62.

**Section 93**

—Authorizes agreements with private contractors to rent state-owned parking spaces on weekends and at night (except for parking areas at the State House, the McCormack Building, and the Saltonstall Building).

- Revenue Impact: Senate W&M estimates a revenue increase of \$500,000 per year.

**Section 94**

—Clarifies that the new interest rate of 18% set out in sections 32, 34, and 46 shall apply only prospectively.



**Section 95**

—Requires all wholesale and retail sellers of cigarettes to pay an additional excise of 2½ mills per cigarette (5 cents per pack) for all cigarettes and stamps in inventory as of July 11, 1983.

- Revenue Impact: see section 47.

**Section 96**

—Authorizes Secretary of A & F to contract with collection agencies to collect unpaid D.P.H. charges. Such collections are limited to those from third-party payors and only after notice and demand from the D.P.H. itself. Contractors shall be selected from open bids.

- Revenue Impact: Senate W&M estimates that sections 96 and 97 will generate \$1 million per year.

**Section 97**

—Authorizes Secretary of A & F to contract with private collection agencies to collect unpaid D.M.H. charges. Such collections are limited to those from third-party payors and only after notice and demand from the D.M.H. itself. Contractors shall be selected from open bids.

- Revenue Impact: Senate W&M estimates that sections 96 and 97 will generate \$1 million per year.

**Section 98**

—Authorizes Commissioner of Revenue to establish a 3-month amnesty period during FY 1984. During such period, all penalties on overdue taxes will be waived if the taxpayer voluntarily files and pays such tax.

- Revenue Impact: see section 33.

**Section 99**

—Authorizes Commissioner of Revenues to contract with private collection agencies to collect unpaid taxes. Taxpayer must receive two notices of intent to assign prior to such assignment. Contractors shall be selected from open bids. Amendment specifies that the contracts may provide the manner of compensation to the collectors and that such amounts shall be added to the tax to be collected. Amendment also requires a report on this program “on or before September fifteenth” — it does not say which year or years. Finally, the amendment sunsets itself as of September 15, 1985.

- Revenue Impact: see section 33.

**Section 100**

—Prior law allowed Commissioner of Revenue or his designee to waive only penalties. The tax due and interest thereon could not be efficiently waived.

- Amendment allows Commissioner of Revenue to compromise on the tax liability of a taxpayer if:

- (a) there is serious doubt either as to the collectibility of the tax or the taxpayer's liability;
- (b) the taxpayer has not acted with intent to defraud;
- (c) the compromise is approved by the Commissioner and at least 2 deputies (this authority cannot be delegated); and
- (d) the agreement is in writing, signed by all parties, and sets forth all relevant information.

- Any compromise which reduces the tax due by \$20,000 or more or by 50% or more must be submitted to the A.G. for “review.” If the A.G. fails to object, in writing, within 21 days, the compromise is deemed approved. If the A.G. does so object, the compromise must be suspended until the A.G.'s objection is “resolved.”
- Any signed agreement is final unless the taxpayer has falsified or concealed assets or there is a “mutual mistake of material fact sufficient to cause a contract to be reformed or set aside.”
- All settlement agreements are open to public inspection.
- Amendment also requires a report on this program on or before September 15th for the preceding fiscal year. Amendment also terminates on September 15, 1985.
- Revenue Impact: see section 33.

**Section 101**

—Effective dates of sections 1-7, 11-28, 31, 33, 37, 42-45, 47-51, 53, 59-67, 73-81, 83-89, 92, and 93 are specified. The remaining sections take effect upon passage.

- Comments — The Governor signed c. 233 on July 1, 1983, and attached an Emergency Letter at 4:38 p.m. of that date.







